

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

MONTHLY MEETING

TRANSCRIPT OF PROCEEDINGS

Sacramento City Hall

915 I Street, City Council Chambers

Sacramento, California 95814

Thursday, April 19, 2012

10:09 a.m.

BRITTANY FLORES

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A P P E A R A N C E S

BOARD MEMBERS

Mr. Dan Richard, Chairperson

Mr. Tom Richards, Vice-Chair

Mr. Bob Balgenorth

Mr. Jim Hartnett

Mr. Thomas Umberg

STAFF

Ms. Carey Moore, Executive Assistant

ALSO PRESENT

Mr. Thomas Fellenz, Esq., Legal Counsel

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1 SACRAMENTO, CALIFORNIA, April 19, 2012

2 10:09 a.m.

3 --o0o--

4
5 CHAIRMAN RICHARD: Good morning, ladies and
6 gentlemen. This meeting of the high-speed -- California
7 High-Speed Rail Authority Board come to order.

8 Will the secretary please call the roll.

9 MS. MOORE: Vice-Chair Schenk.

10 Vice-Chair Richards.

11 MR. RICHARDS: Here.

12 MS. MOORE: Mr. Umberg.

13 MR. UMBERG: Here.

14 MS. MOORE: Mr. Burns.

15 Mr. Hartnett.

16 MR. HARTNETT: Here.

17 MS. MOORE: Mr. Balgenorth.

18 MR. BALGENORTH: Here.

19 MS. MOORE: Mr. Rossi.

20 Chairman Richard.

21 CHAIRMAN RICHARD: Here.

22 Vice-Chair Richards, would you please lead us in
23 the pledge allegiance.

24
25 (Pledge of allegiance recited.)

1
2 CHAIRMAN RICHARD: Ladies and gentlemen, two
3 administrative items before we start. First, I've been
4 informed that there was a typographical error in the
5 agenda that was handed out. It was dated yesterday, the
6 19th, instead of the 20th. I'm also informed that new
7 corrected copies are on their way to the auditorium.
8 When they come in, Ms. Moore will have them, and I
9 understand there's also some numbering corrections on
10 them.

11 Also, Item 5, the Approval of the Amendment to
12 Regional Consulting Contracts will be pulled from
13 today's agenda and that will be -- in a different
14 manner.

15 So with that -- okay. Mr. Fellenz points out
16 that the correct agenda was posted online and that was
17 correct.

18 Okay. The public comment period -- I'm sorry.
19 Just one second.

20 I apologize. We do have, today, an action
21 on very important environmental documents, and so we'd
22 like to make a slight change in the public comment
23 structure. So we have Agenda Items 1 through 4, which
24 relate to the Consideration of Resolutions to Rescind
25 the Bay Area to Central Valley Revised Final Program

1 EIR, then to receive staff presentation, and then to
2 consider the adoption, certification of a new partially
3 revised final program EIR. What we'd like to do is I'm
4 going to ask our general counsel, Mr. Fellenz, to
5 present on this item, and then we'd like to bifurcate
6 the public comment period. We'd appreciate it to first
7 have public comments on those items, those times alone.
8 After that, after the board takes action on those items,
9 we will then have public comment for the rest of the
10 agenda.

11 Mr. Fellenz.

12 MR. FELLEENZ: Thank you, Chairman Richard
13 and board members. As you can see, Agenda Item Number 1
14 is for consideration of a resolution that would rescind
15 the Board's prior resolution, #11-11, from September
16 2010. The agenda item was carried over for the last
17 week's board meeting. So Agenda Items 1 through 4 are
18 all related to this Bay Area to Central Valley Program
19 EIR.

20 The Board will first pick up the question of
21 rescinding the old decisions. Then there'll be public
22 comment, and then after the Board has taken up the
23 question of rescission, it will be necessary for you to
24 take a step back and consider with an open mind the new
25 decisions that you're about to take place for Items 2

1 through 4, which includes all consideration of the
2 public comments that you'll be receiving during the
3 public comment period.

4 You'll then be asked to consider the whole record
5 before you, including the analysis from 2008, 2010, and
6 2012 in making a new decision in good faith and with
7 your independent judgment and what prior boards decided
8 was relevant information, but it shouldn't govern your
9 decision.

10 So Item Number 1, the resolution before you, is
11 straight forward. It would rescind the certification of
12 the 2010 revised program EIR and the prior approval of
13 the Pacheco Pass network alternative actions taken under
14 CEQA. The Authority was ordered to rescind decisions in
15 the town of Atherton litigation, and as you are aware,
16 since I forwarded this to you, there has been an appeal
17 filed in that litigation meaning that you don't
18 technically have to take the action to rescind those
19 decisions today, but you can still do so and still
20 comply with CEQA.

21 After taking the action on Number 1, assuming
22 that you do so, you will then take up the questions of
23 whether to certify the 2012 partially revised final EIR
24 and make your decisions about which network alternative
25 to select.

1 CHAIRMAN RICHARD: All right -- I'm sorry.

2 MR. FELLEENZ: And with that, I'm going to
3 allow the Chair to conduct Item Number 2, which is the
4 public comment on this environmental document.

5 CHAIRMAN RICHARD: Thank you for allowing me
6 to do so.

7 MR. FELLEENZ: So you need to take action on
8 this first rescission.

9 CHAIRMAN RICHARD: Right, on the rescission.
10 Okay. So -- and I'm sorry, folks who are
11 following along at home, but we're trying to be precise
12 about compliance with judicial rulings and so forth. So
13 we want to do this the right way. Pursuant to a ruling
14 in the Atherton case that has just been made available
15 from the courts, the issue that the Authority is really
16 directed to rescind its priorly approved program level
17 EIR, and we need to do that first and -- as a matter of
18 legal compliance -- and then we will open up for a staff
19 presentation and public comment and deliberations.

20 Mr. Hartnett.

21 MR. HARTNETT: Mr. Chair, I just want to be
22 clear. On the Agenda Item 1, the rescission issue,
23 don't we have to give the opportunity for public comment
24 before we actually --

25 CHAIRMAN RICHARD: Well, that's what I

1 thought.

2 MR. FELLEENZ: No. No, it's only for the
3 rescission. We're starting out with the decision on the
4 rescission, itself.

5 MR. HARTNETT: Right.

6 MR. FELLEENZ: So if we make the decision --

7 CHAIRMAN RICHARD: It would seem to me, as a
8 non-practicing attorney, that if the court has directed
9 us to rescind that EIR and -- I mean, I suppose we could
10 take public comment on it, but we have to comply with
11 the court order. So --

12 MR. HARTNETT: I mean, based upon the
13 information available and the court's ruling, I'm happy
14 to make a motion and adopt the resolution to rescind it.
15 I just want to make sure that we're in the proper
16 sequence.

17 CHAIRMAN RICHARD: I agree with that.

18 Mr. Fellenz, can we ask the counsel to come up
19 and address those.

20 MS. GREENE: Certainly, you are welcome to
21 take public comment if there are any comment cards on
22 this particular agenda item before you take action.

23 CHAIRMAN RICHARD: Well, there is a comment
24 card actually on Item 1 that I see. Actually, a couple
25 of them. So --

1 MR. FELLEENZ: Why don't you do that.

2 CHAIRMAN RICHARD: We'll take public
3 comment.

4 Counsel, is there any reason not to take public
5 comment on Items 1 through 4 at this time, or should I
6 separate that?

7 MS. GREENE: Just one.

8 CHAIRMAN RICHARD: Just one. Okay.

9 First, just to let people know, we take speakers
10 in the order in which their speaker cards are turned in
11 with the exception that we generally ask our public
12 officials, elected officials to speak first as
13 representatives of the community. In this case, I have
14 gone through the stack of speaker cards and pulled out,
15 in the order that they were received, those cards that
16 appear to be related to Items 1 through 4. I have in
17 front of me only two speaker comments for Item 1, and so
18 I'm going to call up both of those at this point. If
19 there's anybody else who wishes to speak on that item,
20 please let us know right now.

21 First is Mr. Stuart Flashman, and he'll be
22 followed by Mark Powell.

23 MR. UMBERG: Just so clarify --

24 CHAIRMAN RICHARD: Yes, Director Umberg.

25 MR. UMBERG: So we have no choice in this

1 matter, correct?

2 CHAIRMAN RICHARD: That's correct.

3 MR. UMBERG: All right.

4 CHAIRMAN RICHARD: We're sworn to uphold the
5 law.

6 MR. FLASHMAN: Thank you, Chair Richard and
7 board members, and actually you do have a choice, and
8 your counsel has just identified that, that since an
9 appeal has been filed, technically and particularly if
10 you decide to file a cross-appeal, you could say, "Well,
11 we're not sure what the final court judgment is going to
12 be, and therefore, we're going to hold off taking any
13 action on this until we know what the final outcome of
14 the appeal and perhaps potential cross-appeal is." I
15 would not advise that.

16 Let me explain why, and that is because
17 essentially, this program EIR is a foundation on which
18 you're going to base project-level decisions and not
19 only in this section but also in other sections of
20 the -- particularly in the Fresno to Merced section.
21 There's a reliance on the decision in the program level
22 in this section in making a decision on the Fresno to
23 Merced section.

24 If you were to not rescind and keep the prior
25 decisions and the court eventually decided that the

1 trial court was correct or for that matter, that the
2 plaintiffs were, in fact, correct in their appeal and
3 there were even additional deficiencies, if you left
4 that in place, anything you did between now and when
5 that happened would be like building on a flawed
6 foundation. And the if the foundation gives way, so
7 does everything else above it. So my recommendation
8 would be that you rescind the approval, and then
9 consider what you do next. Thank you.

10 CHAIRMAN RICHARD: Thank you, Mr. Flashman,
11 and in fact, I appreciate that because that is
12 consistent with our understanding is that once the
13 appeal was filed, we did not have to necessarily take
14 this action today.

15 Mark Powell.

16 MR. POWELL: My comment goes better with
17 Item Number 5.

18 CHAIRMAN RICHARD: Okay. You were down for
19 Item Number 1.

20 MR. POWELL: Yeah, but it was just general
21 comments.

22 CHAIRMAN RICHARD: Okay. Thank you, Mr.
23 Powell.

24 One second. Okay. That completes the public
25 comments on this particular item, Mr. Fellenz.

1 MR. FELLEENZ: For Item Number 1. So now the
2 Board can consider and deliberate on Item Number 1.

3 CHAIRMAN RICHARD: Right. So at this point,
4 Vice-Chair Richards -- I'm sorry. I didn't know if you
5 were seeking to be recognized.

6 MR. RICHARDS: Yes. I just had one
7 question, and it's just a matter of clarification.

8 Mr. Fellenz, on page two of your staff report,
9 where it says, "The attached draft resolution provides
10 the legal mechanism by which the Authority can comply
11 with one component of the final court papers." So there
12 are other things that we need to do to comply with the
13 final court papers; the rescission is just one of those?

14 MR. FELLEENZ: Yes, it's just one.

15 MR. RICHARDS: So I assume the other work
16 that we have done since then is also in furtherance of
17 compliance with the court papers.

18 MR. FELLEENZ: Yes. Yes, that would have
19 been the environmental -- the revised copy.

20 MR. RICHARDS: Thank you.

21 MR. FELLEENZ: So the one point would be
22 rescind, and then the next would be fix the document.

23 MR. RICHARDS: Thank you.

24 CHAIRMAN RICHARD: Okay. Mr. Hartnett.

25 MR. HARTNETT: Yes. I move we adopt the

1 resolution as presented.

2 MR. BALGENORTH: Second.

3 CHAIRMAN RICHARD: Okay. This has been
4 moved Mr. Hartnett and seconded by Mr. Balgenorth that
5 the Board adopt the resolution as presented to rescind
6 the -- to be precise -- to rescind the revised final
7 program EIR.

8 Would the secretary please call the roll.

9 MS. MOORE: Vice-Chair Richards.

10 MR. RICHARDS: Yes.

11 MS. MOORE: Mr. Umberg.

12 MR. UMBERG: Aye.

13 MS. MOORE: Mr. Hartnett.

14 MR. HARTNETT: Yes.

15 MS. MOORE: Mr. Balgenorth.

16 MR. BALGENORTH: Aye.

17 MS. MOORE: Chairman Richard.

18 CHAIRMAN RICHARD: Yes. Okay.

19 MR. FELLEENZ: And you can move on to Agenda
20 Item 2, which is the public comment now on the document,
21 itself.

22 CHAIRMAN RICHARD: I'm sorry. Agenda Item 2
23 is the staff presentation.

24 MR. FELLEENZ: We have David Freytag. Let me
25 just make it clear.

1 CHAIRMAN RICHARD: Do you want to take the
2 public comments first? It seems that we have a staff
3 presentation.

4 MR. FELLEENZ: Yes. The comments that were
5 received was only on Item Number 1; is that right?
6 Okay.

7 CHAIRMAN RICHARD: Yes. I called for any
8 other commentary on Item Number 1, and there was none.

9 MR. FELLEENZ: Okay. So now we have David
10 Freytag for presentation on Item Number 1.

11 MR. FREYTAG: Good morning.

12 CHAIRMAN RICHARD: Good morning.

13 MR. FREYTAG: We'll make this interesting
14 this morning. Again, I'm David Freytag. I'm going to
15 provide you with a brief presentation today on the Bay
16 Area to Central Valley EIR. The purpose of this
17 presentation is to review the entirety of this program
18 EIR process and to highlight the key issues that have
19 been raised over the years starting in 2005 on to 2012.

20 We have the technical resources here today to
21 assist me to answer questions, should you have any, or
22 of any topics that relate to the partially revised
23 program EIR come up, we're here to help answer those.

24 The purpose of this program EIR was, from the
25 beginning and is to this day, support the choice of what

1 the document calls a "network alternative" or overall
2 route into the Bay Area to Central Valley as well as
3 individual alignments and station locations that will
4 become part of the statewide high-speed train system.
5 This EIR is called a program EIR because the Authority
6 decided to use a tiered environmental process. This
7 means that the Authority has used a more general, first
8 tier or program EIR to examine the impact at the general
9 level to support its very general decisions about basic
10 routes for the high-speed train systems. The Board did
11 this in 2005 for the statewide program EIR and also for
12 the Bay Area to Central Valley EIR. The program EIR
13 decision involved a commitment for more study, not an
14 approval to build anything. The Authority will then use
15 a more detailed second tier, or project-level EIR, to
16 examine impacts in more detail and make specific
17 decisions about detailed alignments that will actually
18 be proposed for construction.

19 So this slide shows the different milestones of
20 what has been quite a lengthy EIR process. To recap a
21 little bit, if we go way back, the Bay Area to Central
22 Valley program process started in 2005 with a conclusion
23 of statewide program EIR/EIS. The Authority in 2005
24 decided to do the Bay Area to Central Valley connection
25 for the high-speed train system merited a more focused

1 study and decided to prepare a second program EIR on
2 this study area. The Authority developed a program EIR
3 in December 2005 to -- excuse me -- to July 2007,
4 circulated a draft for public comment, and issued a
5 final program EIR/EIS in May 2008. Final decision
6 occurred in July 2008, and a lawsuit followed.

7 Base on the lawsuit, the Authority prepared a
8 revised draft program EIR that is -- that was issued in
9 March 2010 and was finalized in August of 2010, and
10 again, more lawsuits followed. In November 2011, the
11 court issued rulings that were not finalized until
12 February 2012. The Authority moved forward, issued a
13 partially revised draft program EIR just this past
14 January, and now before you today is the partially
15 revised final program EIR.

16 And then you might remember this slide from the
17 last time but this is -- at the program level this is
18 the broad study area showing -- with the hatch marks
19 between the Bay Area and the Central Valley. The
20 program EIR examined multiple alignment as you can see
21 here. It's a little hard to see, but there's multiple
22 alignments and station options that we studied.
23 Particularly, you know, looking at how the project met
24 the project objective being close to existing rail and
25 transportation corridors as much as feasible and

1 possible. It's hard to see, but we wanted to revisit
2 the multitude of options studied in the 2008 final
3 program EIR. This document contained 11 representative
4 network alternatives, taking all the little pieces
5 together to create network alternatives. Eleven of
6 those were for the Altamont Pass. Six of those network
7 alternatives were for the Pacheco Pass, and four of them
8 were combined for both passes. We'll get to the issues
9 at each of the stages in just a second, but before we do
10 that, I'd like to focus on the breadth of the public
11 participation process that has occurred as part of the
12 program EIR.

13 With each iteration of the program EIR, the
14 Authority has received and responded to many comments.
15 We have had over 1,000 comments on the documents to date
16 and a number of -- sorry -- commenters. We've had a
17 thousand commenters, and we've had almost 5,500 comments
18 that we've responded to.

19 Let's look back at some of the issues that were
20 raised as part of each step in the process. So some of
21 the key issues raised in 2007 and 2008 included people
22 actively voicing their opinion on the northern mountain
23 crossing of Altamont versus Pacheco. There was a strong
24 concern voiced by the biological impact of both the
25 major routes across the mountain ranges including Don

1 Edwards National Wildlife Refuge for Altamont and
2 Grassland Ecological Area across the Altamont -- I mean
3 Pacheco -- to rebut the strong concern voiced over
4 growth objectives for the high-speed train system. At
5 the very end of the process in May 2008 and again in
6 July 2008, the Union Pacific Railroad sent letters to
7 the Authority indicating its refusal to allow any of its
8 right-of-ways to be used for the high-speed train.

9 So what you're looking at, here, is one of the
10 key issues of the GEA and Don Edwards National Wildlife
11 Refuge. I'd just like to point out that all of the
12 network alternatives have a significant potential impact
13 on aquatic and wetland habitats and other sensitive
14 resources. Back in 2007 in December over at the State
15 Capitol, the Authority delivered an extensive slide
16 presentation illustrating these two areas. The program
17 EIR analyzed the biological impacts placed on the
18 high-speed train in each sensitive area. This issue was
19 challenged in court and found to be in compliance with
20 CEQA.

21 The Altamont network alternative that would cross
22 the Bay at Dumbarton would impact open bay, salt pond,
23 salt marsh, mud slab, and burn pool habitat. The
24 network alternatives crossing at this location result in
25 more than 39 acres of potential direct impact on the Bay

1 and other water bodies and up to 46 acres of potential
2 direct impact on wetlands. 33.8, almost 34 acres of
3 that, would occur directly within the Bay Area, here.

4 A new bay crossing would also require extensive
5 coordination and consultation with on board engineer,
6 and there's the Rivers and Harbors Act, US Fish and
7 Wildlife Service, and the California Costal Commission
8 would involve extensive, uncertain, and time consuming
9 permit processes.

10 The Grasslands Ecological Areas for the Pacheco
11 Pass alternative would cross through along Henry Miller
12 Road including a 3.3 mile elevated structure through the
13 GEA area similar to what this slide is showing. This
14 would result in potential direct impacts on almost four
15 acres of water bodies and almost 16 acres of wetland.
16 Eleven and a half of those acres of wetland would be
17 occurring along the Henry Miller Road alignment as
18 shown, here.

19 As discussed in the 2008 final program EIR, the
20 high-speed train would have biological impacts in both
21 areas. Pacheco Pass serves San Francisco via San Jose
22 and has few impacts on these highly sensitive resources
23 including wetland and aquatic resources and would not
24 require a bay crossing. It's important to recall here
25 that the Army Corps of Engineers and the US EPA worked

1 with the Authority in the 2008 final program EIR as part
2 of the section for Clean Water Act and compliance and
3 included the Pacheco Pass network alternative was most
4 likely to contain the eventual Least Environmentally
5 Damaging Practicable Alternative or better known as the
6 LEDPA.

7 The analysis of growth and GEA impacts is
8 challenging and found to be in compliance with CEQA. A
9 high-speed train as a whole would induce a very small
10 amount of growth for Cambridge Systematic studies that
11 was prepared, but most of this would occur in the area
12 that is already anticipated to grow in the northern San
13 Joaquin Valley.

14 At the conclusion of the lawsuit that was filed
15 challenging the 2008 final program EIR, the court found
16 the Authority's 2008 final program EIR was adequate in
17 some areas like the range of alternatives, the
18 Biological Resources Act, and the analysis of growth.
19 The court did not find -- the court did find that were
20 some CEQA deficiencies in some area.

21 The 2010 revised program EIR was intended to
22 address those areas. More specifically, the project
23 description along Monterey Highway south of San Jose and
24 analysis of the impacts moving and shifting the highway
25 on adjacent revenues and businesses on traffic noise and

1 vibration and Union Pacific train operation.

2 Relationship with the high-speed train and Union Pacific
3 right-of-way and whether the deed to the adjacent UPRR
4 ran within its right-of-way would lead to additional
5 impacts and possible injuries.

6 The comments on this revised program EIR were
7 varied and raised a multitude of issues. I'll touch on
8 a few. The discussion of the high-speed train alignment
9 Union Pacific Railroad interface was provided and
10 discussed in the 2010 revised program EIR as shown on
11 this map. What this map shows is that you can get from
12 the Central Valley to the Bay Area on both Altamont and
13 Pacheco with relatively little interface with UPRR.
14 However, some areas, such as the alignment to Oakland
15 shown in red -- you can see it to the right, there, of
16 the green line going up the bay -- it would have -- you
17 would have particular issues with UPRR within the
18 right-of-way. The issues related to high-speed train
19 and the UPRR freight operations were not further
20 challenged.

21 The 2010 revised final program EIR included
22 extensive comments regarding rainfall alternative and
23 responses to those comments. The comments raised many
24 options that have been considered in the EIR already
25 such as stopping in San Jose. The Authority received a

1 large submission of adoption policies with SETEC
2 proposals, which had several components identical or
3 similar to those that the Authority had already studied
4 or had considered and ruled out.

5 The rainfall alternative discussion in the 2010
6 final program -- revised final program EIR was, again,
7 challenged in court and found to be in compliance with
8 CEQA. The subject of the ridership forecast and the
9 ridership model were also a major topic raised in 2010.
10 Ridership forecast was prepared by Cambridge Systematics
11 between 2005 and 2007. A peer review by the University
12 of California Berkley Institute for Transportation
13 Studies in 2010 questioned access to the model. The
14 Authority invited representatives from both Cambridge
15 and ITS to present it to it in July of 2010 at a meeting
16 at the Authority Board. The Board was able to hear from
17 both groups and ask questions. Ridership model was
18 challenged in court as part of a lawsuit on the 2010
19 revised final program EIR and found be in compliance
20 with CEQA.

21 At the conclusion of the two lawsuits challenging
22 the 2010 revised final program EIR, the court again
23 found the program EIR was adequate in some areas -- in
24 many areas. These included, among other things, the
25 range of alternative, the reliance on the ridership

1 model, and the Authority's procedures. The court still
2 found some problems. These were the areas where the
3 court concluded analysis should be included at the
4 program EIR level was simply not done. These issues
5 identified traffic, noise and vibration, and
6 construction impacts from lane reduction and shifting of
7 Monterey Highway south of San Jose, and traffic, noise,
8 and vibration impacts of the four-track alignment on the
9 peninsula, particularly the potential for loss of
10 parallel streets and the potential for UPRR freight
11 trains to be on the outside tracks of the four-track
12 alignment.

13 The 2012 partially revised final program EIR
14 addressed these issues. The document also addressed new
15 information, particularly the draft 2012 business plan
16 and the revised 2012 business plan. The Authority
17 received 56 current submissions with over 400 comments.
18 The key issues in this process are peninsula traffic
19 impacts, concern with the Authority to discuss a
20 four-track alignment on the one hand rather than
21 changing the project to be only a blended system on the
22 peninsula. Although left with this issue of public
23 comment, there was still a number of comments suggesting
24 the range of the alternatives was inadequate. So we'll
25 just walk through these issues now.

1 The peninsula cities that participated in the
2 comment process generally all concerned issues about
3 traffic congestion from loss of the lanes in the street
4 parallel to certain portions of the right-of-way. These
5 included San Mateo, San Carlos, Menlo Park, Atherton,
6 and most prominently, Palo Alto. Mitigation strategies
7 were identified to address the traffic impacts. In
8 addition, depending on project level design, refinements
9 such as some of the anticipated lane blocks could be
10 avoided.

11 A second key issue in this process was the
12 relationship with the program EIR to the business plan.
13 The draft 2012 business plan was issued in November
14 2011. The partially revised draft program EIR was
15 circulated starting in January, addressed the
16 implementation strategies for the high-speed train
17 system and business plans to the extent it has
18 implications for the analysis of the program EIR. For
19 example, in chapter five of the partially revised
20 program EIR in front of you, addressed the phasing
21 concepts in the business plan and described the
22 different environmental consequences associated with the
23 temporary northern high-speed train terminal, a
24 condition which may occur if the high-speed train
25 reached San Jose or Union City and either station served

1 as a temporary end point while connecting service for a
2 one-seat ride is implemented.

3 Another example is that in chapter five, it's the
4 same document, there's a brief discussion of the blended
5 system and what it might mean in terms of different
6 impacts. The analysis of phased implementation, putting
7 the blended system, was done at a first tier,
8 programatic level. But we do want to make it clear that
9 the implementation strategy in the business plan were
10 not ignored. They were discussed and addressed as
11 appropriate at the programmatic level of detail in the
12 revised -- partially revised program EIR.

13 Finally, some comments suggested that the program
14 EIR needed certain revisions and recirculation to study
15 additional alternatives. The focus this time was on the
16 suggestions that, one, blended for the peninsula should
17 be treated as a separate alternative, and, two, the
18 Authority should study in detail an Altamont rail
19 project alignment with the blended system on the
20 peninsula shown in the dotted grey line, there.

21 As part of responding to comments, staff and
22 consultants looked at these options and provided
23 responses on the partially revised final program EIR.
24 The blended system is not considered a separate
25 alternative. The blended system is a component of

1 phased implementation for the second tier project on the
2 peninsula. It requires a second tiered planning process
3 to develop it in more detail to analyze impacts at a
4 level of -- a level of greater detail that was -- than
5 what was provided at the program EIR stage.

6 The other proposal shown here is not a reasonable
7 alternative, because the facts available show it does
8 not meet the project's purpose and need of the
9 objective. It is based on a slower, more secure
10 alignment for the Altamont corridor rail project.
11 Travel times to San Francisco from LA are anticipated to
12 be far longer than the preferred alternative. In excess
13 of three hours and 17 minutes due to slower speeds and
14 longer distance. In addition, although this alternative
15 may avoid some impacts for the preferred alternative, it
16 is not, itself, environmentally benign. There would be
17 environmental impacts associated with this alternative
18 as well.

19 For these reasons, in the judgement of staff, the
20 Authority need not stop its process, study this
21 additional idea, and circulate the idea for public
22 comment. In short, the conclusion of staff in the
23 proposal is that even with new information, the range of
24 alternatives studied in the program EIR remains
25 reasonable and compliance with CEQA.

1 There are a few points I'd like to close with.
2 There will be adverse impacts to the national
3 environment and human environment from the high-speed
4 train no matter where you put it. There are also many,
5 many benefits to be derived from the project. The
6 decision before you, assuming you certify the program
7 EIR, is to balance the different types of impacts in
8 different locations with the project benefits and the
9 ability of the different alternatives to meet the
10 project objectives. The program EIR as a whole looked
11 at 21 network alternatives. So the Altamont, right
12 across, and the Pacheco goes right across the bottom
13 there. We studied 11 Altamont Pass network alternatives
14 shown here in blue on both of these slides. We studied
15 six Pacheco Pass network alternatives, shown here in
16 blue on each one of these, and four combined Pacheco and
17 Altamont Pass network alternatives. The range has been
18 challenged twice and upheld twice, and the team feels
19 strongly that this range of alternatives continues to be
20 an adequate and appropriate range for the Board's
21 decision making.

22 Finally, the program EIR sets forth the rationale
23 for the staff recommendation. It continues to be
24 Pacheco Pass network alternative serving San Francisco
25 via San Jose. Why, because it best meets the purpose

1 and needs of the proposed HSR system, it minimizes
2 impact on wetlands, water bodies, and environment, best
3 serves the connection between northern and southern
4 California, best utilizes an existing publically-owned
5 rail corridor with potential for track sharing still
6 supported by the Bay Area region, and the Board and the
7 EPA have concurred that the preferred Pacheco Pass
8 network alternative would most likely yield the best
9 hub. This rationale is set forth in more detail in
10 chapter six of your revised final program EIR finding.

11 So with that, as you move forward today in your
12 agenda items, we note that the partially revised final
13 program EIR not only includes the 2012 document and
14 responses to comments but also the 2010 revised final
15 program EIR and the 2008 final program EIR. For 2012,
16 we also prepared a six-page addendum, which you have in
17 front of you, about project benefits in light of the
18 revised business plan and additional technical piece of
19 information. This is also out front for the public.

20 Let me just point out what the documents are that
21 you're looking at here on the table. The taller stack
22 is the 2008 final program EIR, the middle stack is 2010
23 revised program EIR, and the one to the far right is the
24 2012 partially revised program EIR. That is the whole
25 of the record in front of you. The partially

1 revised draft -- or sorry. The partially revised final
2 program final EIR was issued on April 6. Documents were
3 made available on the Authority website. They were
4 distributed to over 930 Federal, State, and local
5 agencies, tribes, elected officials, and other groups
6 and individuals who commented on the 2007 documents,
7 2010 and 2012. These documents are also in 16 libraries
8 across the area. Notice of availability and
9 consideration was distributed to a mailing list of over
10 24,000 individuals, and the notice was also published in
11 wetland newspapers. All of the information discussed in
12 this presentation is part of the entire record before
13 you and is considered part of the partially revised
14 final program EIR. This six volume of documents is
15 provided to you for your decision making process.

16 In conclusion, staff recommends that the Board
17 certify the partially revised final program EIR for
18 compliance with CEQA and proceed to make new a decision
19 after hearing public comment, and now we'd like to open
20 up for questions.

21 CHAIRMAN RICHARD: First of all, Mr.
22 Freytag, I want to thank you very much for a very
23 comprehensive, very clear presentation. Even though I
24 have been reading though these materials, the -- just
25 the titles of the various documents and so forth get to

1 be a bit of a blur. So as a newer member of the
2 Authority, I very much appreciate that very lucid
3 presentation.

4 So let me now ask for public comment on both the
5 staff report that was presented and also the pending
6 action before the Board to adopt the -- to adopt the
7 final -- excuse me -- to adopt the partially -- the
8 final partially revised -- partially revised final
9 program EIR. I'm going to be tripping over that all
10 day.

11 As I said, I have withdrawn those speakers cards
12 that identify that they're for Items 3 and 4. We'll
13 take those together. I'm calling people in the order
14 they are received. I do not see, at this point, any
15 elected officials, whom we've asked to go first.

16 And we'll set the timer at two minutes for these.
17 Why don't we set the time for two minutes for the public
18 comments. First is Stuart Flashman, and Mr. Flashman
19 will be followed by Kathy Hamilton and then Dan Ersey.

20 MR. FLASHMAN: Good morning, again, Chair
21 Richard and board members, and again, my name is Stewart
22 Flashman. I represent the plaintiffs in both Atherton I
23 and Atherton II lawsuits, and it was pointed out to me
24 today that I have now been working on this issues for
25 ten years, which I think is probably longer -- I'm

1 pretty sure it's longer than any of you, board members,
2 has been on the Board, and I think it's probably longer
3 than most of the staff has been involved in this.

4 CHAIRMAN RICHARD: I think Ms. Schenk might
5 have been here.

6 MR. FLASHMAN: I want to say that we
7 appreciate, again, as I said last week, we appreciate
8 some of the changes that the Authority has made in the
9 last year. However, we do not think that this EIR is
10 ready for prime time, and this is the third time I'm
11 standing here in front of this board and telling you,
12 you have an EIR that you should not be certifying. And
13 twice before, I've said this, and you've gone ahead on
14 recommendation of staff and certified an EIR, approved
15 the project, been brought into court and the court has
16 said, "Nope. You're wrong." And I'm presuming that you
17 are thinking at this point, "Well, third time's the
18 charm," but there's another 'third' phrase that might
19 apply here, and that's "three strikes," and we know the
20 consequences of that. And I would hope that you're not
21 going to go ahead in that direction because it would be
22 a shame if the results of your moving forward here would
23 be that eventually the high-speed rail system didn't
24 happen. Because of -- most of my clients actually would
25 like to see a high-speed rail system, but they would

1 like to see it done right. And frankly, this project
2 EIR doesn't do it right.

3 The major issue -- I think probably the biggest
4 single issue is the refusal to study the blended
5 alternative as a true alternative, which it is. And
6 Chair Richard, yesterday at the legislative hearings,
7 acknowledged that this will meet the criteria that needs
8 to be met, and yet, you're not considering it at all,
9 and that's wrong. Thank you.

10 CHAIRMAN RICHARD: Thank you, Mr. Flashman.
11 Kathy Hamilton followed by Dan Ersey followed by Jim
12 Bigelow.

13 MS. HAMILTON: Hi, this is Kathy Hamilton.
14 Anyway, I just wanted to make a couple of notes on this
15 particular alignment. Union Pacific does not own the
16 right-of-way, but they retain vestige rights, and they
17 get to make decisions on who is on the tracks as far as
18 intercity rail. This opinion is lacking, and very
19 important for you to move forward, and I understand that
20 we are more than a year behind in obtaining permission
21 and that -- for that alone, you shouldn't certify. You
22 should get that first.

23 The other thing I wanted to say, while the
24 blended system does hold some promise if it is done
25 right, it does not follow what Senator Simitian, Anna

1 Eshoo, and Rich Gordon promoted. Still in this EIR is
2 an elevated track option and a four-track option, and
3 most importantly, we haven't gotten the opinion from the
4 Attorney General that the -- that the blended system
5 complies with 1-A and 3034, and there are several
6 problems with that. So what is happening -- let me just
7 borrow something from Senator Simitian. He said, "If
8 you do not reduce the scope, you will leave a sword
9 hanging over the head of all of the residents and
10 businesses along a 50-mile crowded corridor."

11 So please do not certify. I'm sorry. We don't
12 trust you this time to go ahead with the blended. Thank
13 you.

14 CHAIRMAN RICHARD: Thank you, Ms. Hamilton.

15 Dan Ersey followed by Jim Bigelow followed by
16 Katherine Phillips.

17 MR. ERSEY: Good morning. My name is Dan
18 Ersey. I've been active in neighbor preservation and
19 restoration for 27 years in the city of San Jose. I'm
20 here representing a neighborhood association called the
21 Greater Gardener Neighbor Coalition, which represents
22 three of the oldest, most historic neighbors in San Jose
23 just south of the Diridon Train Station.

24 This might sound a little strange, because I
25 don't think you have many people complimenting you, and

1 usually, I'm not complimenting you either, but in this
2 instance, our coalition would like to take this
3 opportunity to do that. I'm here to comment on Agenda
4 Item 4, specifically, the 280-87 bypass. Much time was
5 spent with your staff and our neighborhood to find a
6 solution for both our neighborhood and HSR. We would
7 like to thank you, your staff, and the Board for keeping
8 this bypass in the revised EIR. Also, would like to
9 give an extra thanks to Gary Kinnerly for his patience
10 and clear thinking on this matter.

11 I think I'm almost out of time. We look forward
12 to working with you in the future, and we really hope
13 that we can all take the time to make high-speed rail
14 what it really needs to be. Thank you for your time.

15 CHAIRMAN RICHARD: Thank you. I was going
16 to say we're tempted to extend time for people who are
17 complimenting us, but we don't do that.

18 MR. ERSEY: I don't have any other good
19 things to say.

20 MR. BIGELOW: Jim Bigelow with the Redwood
21 City, San Mateo County Chamber. The revised partial
22 document appears to be much improved and in spirit of
23 the court order. Hopefully, it will meet the test. The
24 discussions relative to Altamont Pass and the Dumbarton
25 corridor, those have gone on for years and years, and I

1 would note that there's a \$19 million EIR/EIS plan
2 that's going to come out in the next couple of months
3 for the Dumbarton rail corridor, which is in the photo
4 shown by staff in the staff report, and we would take
5 exception to seeing that track right on the Dumbarton
6 rail the way it's portrayed, because that's a needed
7 other connection. We have supported Pacheco Pass for a
8 long time after looking at the marriage of both Altamont
9 and Pacheco, and I think there has been a lot of work
10 done. I've gone to a lot of meetings relative to the
11 Monterey Highway south of San Jose and the work that has
12 been done. So I -- there are detailed, project level
13 work that's underway, and it's really going to identify
14 the detail, which is the level below the program
15 document you're considering today. I would hope that we
16 could move forward with the recertification and move on
17 and start looking at the results of the project level
18 work and the blended system. The blended system is
19 very, very important on the San Francisco peninsula.
20 Some cities don't like the four-track, and that, in
21 itself, contributes to some litigation in this document,
22 but you know best I hope. Thank you.

23 CHAIRMAN RICARD: Thank you, Mr. Bigelow. I
24 have to say that I suspect you're in the minority of
25 people who think we know best, but we appreciate that

1 very much.

2 Katherine Phillips followed by David Schonbrunn
3 followed by Richard Tolmach.

4 Good morning, Ms. Phillips.

5 MS. PHILLIPS: Good morning. I'm Katherine
6 Phillips with Sierra Club, California. First, I'd like
7 to thank Chairman Richard and the rest of the board
8 members for the, the attitude and openness that we've
9 seen. We think it's a shift from previous authority
10 approaches, and we really do appreciate that in the last
11 few months. There's been a lot of reaching out. We've
12 had a lot of effective conversations.

13 I'm here today, though, to ask the Board to take
14 appropriate action to ultimately shift the train's
15 east/west routes between the San Joaquin Valley and the
16 Bay Area through the Pacheco Pass to the Altamont Pass.
17 The shift in the routing would avoid directly impacting
18 California's largest inland contiguous wetland area
19 heavily used by birds and other wildlife and would avoid
20 inducing sprawl in an area that's mostly rural or
21 otherwise less developed than the Altamont Pass route,
22 and it would drive the train through a highly populated
23 but underserved transportation corridor by going through
24 the Altamont pass, and it would complement existing and
25 anticipated growth and transportation improvements in

1 the Altamont Pass, the north San Joaquin Valley, and the
2 southern Sacramento Valley, and areas west of the pass.
3 And shifting the route just makes better sense for the
4 environment, for a good transportation system, and
5 frankly, I think it will make this thing move faster,
6 and I mean, by this, the process not necessarily the
7 train.

8 So I urge you to encourage your board to go back
9 and study the Altamont Pass blended approach that they
10 haven't studied yet and consider that as a way of
11 getting this train moving. Thank you very much.

12 CHAIRMAN RICHARD: Ms. Phillips, may I ask
13 you a question?

14 MS. PHILLIPS: Yes.

15 CHAIRMAN RICHARD: Since you represent
16 perhaps the most prominent environmental organization,
17 as a decision maker, I just heard the staff indicate
18 that we're going to have environmental impacts on
19 sensitive wetlands no matter which way we go, the Don
20 Edwards National Wildlife Refuge, the Altamont approach
21 versus the grasslands from the Pacheco. Do you have
22 thoughts on that to help?

23 MS. PHILLIPS: Yeah. I mean, that assumes
24 that the only approach once you get over to the Bay Area
25 is to build a new bridge or expand the bridge for the

1 train across -- you know, use the Dumbarton Bridge
2 approach but my understanding is that there are
3 alternatives, that if you use some kind of blended
4 approach where you took the train down to San Jose and
5 then, you know, proceeded using alternatives methods,
6 that you could still have a very fast train. You could
7 get people moving. You'd improve the Bay Area
8 transportation system, and you'd avoid what is, frankly,
9 a very, very sensitive wildlife area.

10 And if I may just share sort of a personal
11 anecdote, I rode with actually a number of different
12 people including a couple legislators, a train from
13 Madrid to Toledo, a high-speed rail train. It was very
14 comfortable, a very nice ride, but we had -- because the
15 legislators were there, not because I was there -- we
16 had the opportunity to go up and actually be in the
17 little area where they were driving. So we saw the
18 front, the front view. And ironically, as we're going
19 up there, the beautiful bird of prey was smashed by the
20 windshield by the train. And, you know, the interior
21 wetland area, the Grassland Ecological Area, is on the
22 edge of -- or right in the Pacific flyway.

23 So I can imagine that going forward in the
24 future, you might anticipate, even if you put it higher
25 up, you're still going to have some bird/train

1 conflicts, and you may have a density of bird/train
2 conflicts there that could cause problems just as we've
3 seen problems with bird/windmill conflicts on the
4 Altamont Pass.

5 So I would encourage you to consider an
6 alternative approach, one that doesn't go across --
7 necessarily, go across the Dumbarton Bridge but uses a
8 more blended system.

9 CHAIRMAN RICHARD: Okay. Thank you. Thank
10 you very much.

11 Mr. David Schonbrunn followed by Richard Tolmach.

12 MR. SCHONBRUNN: Recognizing the biological
13 impacts that we just heard about for both Pacheco and
14 Altamont alternatives, my organization and its
15 colleagues submitted a new alternative comprised of the
16 Altamont corridor rail project, which has already been
17 deemed feasible and that optimized for speed, coupled
18 with the blended approach going from San Jose to San
19 Francisco, this alternative would avoid all the major
20 environmental impacts identified in previous EIRs. The
21 FEIR refused to study this alternative contrary to the
22 mandate of CEQA.

23 I sent you a letter this morning. It went to
24 each of you, and a letter has been handed in,
25 physically, today.

1 You, as project sponsor, are not entitled to say,
2 "The full build is our project. The blended system is a
3 mere implementation strategy." When an environmentally
4 superior alternative is proposed, you have to study it,
5 and then adopt it. If you insist on certifying this
6 document, you will be back in court and lose.

7 There's a very clear subtext to the response to
8 comments. It says to us, "We have already made up our
9 minds where the tracks go. Please don't keep bothering
10 us with rational arguments because we will never ever
11 agree with you even when you have strong arguments. We
12 will make stuff up if we have to." PB claimed we said
13 things that we never said just so that we could knock
14 them down. It's despicable and unprofessional and it's
15 contrary and it's also wrong on CEQA.

16 You're a new board. You are not responsible for
17 the decisions of the past. Have you learned anything
18 from this organization's two previous and expensive and
19 time-consuming losses? Please don't follow your
20 consultants into yet another morass. You were tasked by
21 the Governor with setting a new tone for this agency.
22 Please do so by demonstrating leadership and walking
23 back from the brink. Please send this EIR back for
24 revisions consistent with CEQA.

25 CHAIRMAN RICHARD: Thank you,

1 Mr. Schonbrunn.

2 Mr. Tolmach.

3 MR. TOLMACH: Rich Tolmach, California Rail
4 Foundation. Thank you, Chair and members. I want to
5 focus on the great advantages that there are to going
6 through the Altamont Pass versus Pacheco. From a
7 Sacramento perspective, from a Stockton perspective,
8 from a Modesto perspective, Pacheco is an atrocity.
9 Trying to go from Sacramento to the Bay Area through
10 Chowchilla is something that no rational person would do
11 in a car. It's also crazy to take a train that route.
12 It's nearly 300 miles, and it wastes energy. That is
13 part of the ridership your Pacheco alternative is based
14 on is this supposition that there's going be a great
15 number of people going from Sacramento to Stockton to
16 the Bay Area by a crazy route, and it's something you
17 need to address this time around. You need to get
18 actual verifiable figures that Caltrans and other
19 transportation agencies could actually buy into. What
20 you're basing this, this bad EIR on is a set of already
21 discredited ridership figures. You need to get a fresh
22 look, and that's, that's why in these two prior times,
23 you have come up with a silly result instead of
24 something that the community could buy into. This is
25 why you're having problems getting through any place.

1 It's because so far, you guys haven't listened. This
2 time you should listen to the public, and you should
3 look carefully at the ridership clinics.

4 CHAIRMAN RICHARD: Thank you, Mr. Tolmach.

5 I just want to make sure that anybody else who
6 provided a speaker card in the past, it didn't look like
7 any of them were on these items in case I missed that.

8 Okay. Seeing no indications to the contrary,
9 Mr. Fellenz.

10 MR. FELLEENZ: Thank you, Chairman Richard.
11 So we're moving on to Item Number 4 now in the agenda,
12 and it provides the Board an opportunity to consider
13 taking action on draft resolution, in your board book,
14 that's numbered 12-17, and this resolution if adopted by
15 the Board would do a number of things, and I just want
16 to take a few minutes to kind of walk you through and
17 make it clear what you'll be voting on if you adopt
18 this.

19 First, the Resolution 12-17 would certify the
20 partially revised final program EIR as being in
21 compliance with CEQA. In taking these steps, the Board
22 would be making three certifications. First, that the
23 program EIR has been completed in compliance with CEQA.
24 Secondly, that the program EIR has been presented to the
25 Board, that the Board has reviewed and considered the

1 information in it prior to taking any action to approve
2 the project. And three, that the program EIR reflects
3 that the Authority's independent judgment has been
4 rendered.

5 So I'd like to emphasize these three
6 certifications. On the first one, is the opinion of
7 staff that with the partially revised final program EIR,
8 all issues identified by the court and CEQA litigation
9 has been appropriately addressed. On the second, I'd
10 like to remind the board members and make clear to the
11 public that staff has provided the entire program EIR to
12 the Board including the 2008 amendments, the 2010
13 documents, and the 2012 documents. And on the third
14 certification, I'd like to emphasis, again, that the
15 Board must certify the EIR -- reflects its independent
16 judgment. And what this means is that the Board is
17 taking a fresh look now at all the program EIR
18 materials, all the items generated from 2005 to the
19 present, and that the Board must, in good faith, take
20 this all in, exercise its own judgment, not just a
21 rubber stamp of the recommendations of staff. And what
22 we will -- what we call this is taking a fresh look and
23 not -- but it's not a blank slate because you also need
24 to consider the whole of the record before you make this
25 decision.

1 The second thing that you'll be doing today is
2 the resolution will approve what are called CEQA
3 findings of fact, and that's been presented in the
4 materials that you have received and read. These
5 findings are attached to your resolution as Attachment
6 A. These are required by law to essentially recount
7 that the Authority has adopted all feasible mitigation
8 strategies at this program level to avoid, reduce, or
9 mitigate impacts.

10 The third thing that the resolution addresses,
11 what we will be voting on if you adopt this resolution
12 is it would approve what's called the Statement of
13 Overriding Considerations. This document sets forth the
14 agency's balance of the environmental impacts of the
15 project that cannot, with certainty, be fully mitigated
16 against the economic, legal, social, technological, and
17 environmental benefits of the project. I'd like to note
18 that the revised Statement of Overriding Considerations
19 has been provided to you in a red strikeout format with
20 more clear references to the benefits of high-speed rail
21 as identified in the business plan, and this item is
22 also made available to the public this morning as it
23 was, you, this morning with other board materials, as
24 you can see, these few things that are made.

25 The fourth thing that this resolution would ask

1 you to do would be to adopt a mitigation monitoring and
2 reporting program, which is required by CEQA, and this
3 document is attached as Exhibit B in the materials.

4 The fifth point that you would be considering in
5 adopting this resolution would be to approve the Pacheco
6 Pass network alternative serving the San Francisco via
7 San Jose as discussed in the staff presentation and as
8 recommended in the program EIR document, itself. So
9 this step is an approval of the programmatic project.
10 And I just want to make clear here that it's -- that
11 this step -- what this step does or doesn't do. The
12 approval of the programmatic project is essential in
13 essence an approval of -- to advance this particular
14 route for more environmental analysis. It's not an
15 approval to build anything. It's a programmatic level
16 document.

17 Finally, the resolution includes language under
18 new steps -- or next steps, pardon me -- that would
19 direct staff in how to proceed. And on this language, I
20 want to call your attention to the last paragraph. What
21 this particular paragraph would do is to direct staff to
22 work with Caltrain and local documents to development
23 essentially a blended system project for the peninsula,
24 and then the language directs staff to focus the second
25 tier EIR on that blended system approach. This language

1 has been included because staff believes it's consistent
2 with the business plan that was just released and it's
3 consistent with the program EIR that's before you.

4 With that, I take the opportunity to answer any
5 questions, and at this time, you should deliberate on
6 this issue and consider decision.

7 CHAIRMAN RICHARD: Thank you, Mr. Fellenz.
8 Mr. Hartnett.

9 MR. HARTNETT: Thank you, Mr. Chair. I do
10 have a number of questions. First just a general
11 comment, I appreciate all the hard work that has been
12 put into the revised documents. In my prior capacities
13 I've had the opportunity to review a number of very
14 substantial environmental impact reports, and I find
15 this to be a very comprehensive treatment of the
16 required subject areas. So I appreciate the work that's
17 been done, but I still have some questions, and,
18 Mr. Chair, in my experience with these in the past and
19 other forums is sometimes it appears that I'm hogging
20 the questions. And I don't intend to do that, but I do
21 have a number -- and at a certain point, if you want to
22 cut me off, please -- I won't be embarrassed if you do
23 that.

24 CHAIRMAN RICHARD: Mr. Hartnett, we have the
25 room until 1:30.

1 MR. HARTNETT: But I've had a couple bottle
2 of water already, so I can last.

3 First, just, Mr. Fellenz, and I know you may
4 defer some of these questions to, others, the fact that
5 the -- there's been an appeal filed with the decision,
6 the Court decisions, that -- I just want to be clear --
7 that does not mean that we can't proceed, if we choose
8 to today, to recertify this revised --

9 MR. FELLEENZ: That's correct. You can still
10 take this action today. The appeal was filed on the
11 13th of April, last Friday, and it stays the Superior
12 Court rules, but you can move ahead with this action
13 today.

14 MR. HARTNETT: And it was also a question
15 raised with respect to the, the business plan having
16 been recently adopted and it refers to the blended
17 approach. Is it -- I want to be careful on this. We're
18 not precluded from proceeding now, as this document is
19 drafted, based upon the recent adoption of the business
20 plan, which does make reference to the blended system
21 approach, are we?

22 MR. FELLEENZ: No. The business plan is not
23 an environmental document. It's separate and distinct
24 from that, and the fact that the business plan was
25 adopted, does not preclude you from moving ahead with

1 this document. In fact, the business plan and this
2 programatic environmental document is consistent with
3 each other. They both talk about phasing, and they both
4 talk about analyzed blending, a blended system. So
5 there are no problems with that.

6 MR. HARTNETT: And I note that the
7 resolutions that are included as a direction as -- if we
8 proceed that at the project level, the second tier EIR,
9 that the direction be to study that. I notice then
10 continuing work by Caltrain and also we had suspended
11 work with respect to the overall project EIR because of
12 the litigation and the ongoing work relative to the
13 blended approach as I recall.

14 MR. FELLEENZ: That's correct. The Board did
15 ask that the environmental document at the project level
16 between San Jose and San Francisco stop, timeout, to
17 look at the programatic level document that had to have
18 some changes made and also to consider this blended
19 concept as being proposed by some local elected
20 officials and state legislators.

21 MR. HARTNETT: And what we're talking about,
22 the blended system, can you comment on, on, on how, in
23 comparing the Altamont alternatives versus Pacheco, how
24 do we tell at this stage, or do we need to tell whether
25 the blended approach works best with one or the other?

1 MR. FELLEENZ: The programatic EIR looks at
2 the impacts of blended and you can consider that in the
3 context of either, either route.

4 MR. HARTNETT: So I just -- is there some
5 additional comment on that?

6 MR. Freytag: Sure. Um, so for the, the
7 blended system would be better with Altamont and
8 Pacheco.

9 MR. HARTNETT: Yes, sir. How are we making
10 that determination or how is that fitted?

11 MR. FREYTAG: Well, the Altamont -- the
12 Pacheco corridor would use the blended system. You
13 would still have benefits from the high-speed train
14 system, but you, you may not have the same level of
15 benefits with any of the alternatives using the, the
16 blended system from San Francisco to San Jose.

17 You could have improved benefits related to air
18 quality but not at the same level as what you would have
19 with the whole system. The same with energy. Traffic
20 impacts may differ, because you're not getting all of
21 the grade separations in that you would with the full
22 system. Don, do you want to

23 MR. SPAETHLING: Sure. Yes. My name is
24 Dominic Spaethling with the program management team.
25 From an operational standpoint, we really worked at

1 whether it would make much difference if we came in the
2 Altamont corridor or the Pacheco corridor and if we
3 could tie in with the blended system on the peninsula,
4 and we found that you could. It's -- you could do that
5 on either of the alignments.

6 MR. HARTNETT: Okay. All right. And, you
7 know, I have read the materials that refer to that in
8 the revised plan as well. Actually, more -- this is
9 more of a legal question.

10 You know, you could interpret the court rulings
11 in a -- kind of an oversimplified way to say that the
12 court found in both, you know, the Atherton lawsuits,
13 that there are problems with the level of detail in the
14 program EIR but I'm -- to me, that's kind of an over --
15 I'm mean, people are going to say that, but it's kind of
16 an over simplified view of it, because as I understand
17 it, there's a level of detail at any program EIR, but
18 then the specific details are subject to the second tier
19 analysis, which is the project level EIR. And so I just
20 want to, you know, just talk about impressions really in
21 the sense of the court rulings in that regard. Is that
22 really an oversimplified statement?

23 MR. FELLEENZ: The level of details were
24 adequate in the programmatic EIR. It's just -- it was
25 the descriptions of the -- project description was not

1 complete enough, and so we've addressed that more
2 thoroughly in the revised document. And when you talk
3 about the details, the project level details will come
4 out in the next tiered document, the project level
5 document. So both documents are quite different. The
6 staff believes that the details were adequate for the
7 programmatic level document initially. The court just
8 wanted a better project description.

9 MR. HARTNETT: Okay. I mean, more of a
10 nonlegal thing. You know on the environmental
11 considerations of the Pacheco versus Altamont, there's
12 obviously a lot of materials in connection with that.
13 And it's -- there are many factors that go into the
14 choice of one alternative over the other. Environmental
15 is obviously a very important one, and there seems to be
16 some conflicting views on what's the best
17 environmentally-wise, but can you comment about the
18 comparison about the Don Edwards National Wildlife
19 Refuge versus the Grassland Ecological Area in the two
20 alternatives.

21 MR. FREYTAG: Sure. If you remember in the
22 presentation, the photos that we showed there
23 crossing -- on the presentation where we showed crossing
24 Don Edward versus GEA, you know, both -- both alignments
25 would have impacts. You're not going to get away from

1 impacts, but for Pacheco you had, you know, 15.6 acres
2 of wetland crossing the GEA, on the network alternative
3 that would cross the GEA. But within the GEA, itself,
4 you had about 11 and a half acres of wetland so -- and
5 then compared to Dumbarton crossing where you had 33
6 acres of wetland just within that Bay Area. So
7 definitely, more than half of -- less of the impacts.
8 You'd still have impacts on the species. That's pretty
9 much a wash related to plants and wildlife. Pretty much
10 equal on both of those. So -- and then on the other
11 portion for the GEA crossing, we're looking at
12 approximately three-mile elevated structure along there
13 to allow wildlife movement and less impacts on water
14 resources.

15 CHAIRMAN RICHARD: Mr. Hartnett.

16 MR. HARTNETT: Yes?

17 CHAIRMAN RICHARD: I had a question on that
18 same subject. So before you move on to a different
19 subject area, can we --

20 MR. HARTNETT: Absolutely.

21 CHAIRMAN RICHARD: This is the thing that I
22 think that has been the biggest struggle for me in
23 looking at this, and you heard my question for
24 Ms. Phillips of the Sierra Club, and I understood what
25 she was saying about the grasslands area being on the

1 flyway, which means there's the possibility of -- or
2 perhaps we could say there's some likelihood of some,
3 you know, interaction between the trains and wildlife
4 there. In looking at these, I don't pretend to know the
5 details about the Don Edwards Wildlife Refuge but I
6 presume I'd also -- we'd be looking at similar types of
7 impacts?

8 MR. FREYTAG: Yeah. Potential for bird
9 strikes happens anywhere. You know, for areas going
10 across the GEA, there's the potential for addition bird
11 strikes, but we also have that potential within the Bay
12 Area. We've got, you know, lots of water fowl located
13 in that location.

14 CHAIRMAN RICHARD: Now, the other question
15 on that was -- I don't want to get this wrong, but I
16 thought I understood from Ms. Phillips that she was
17 suggesting that there were other pathways, if you will,
18 that would avoid either -- either of those sensitive
19 wildlife areas. I'm guessing that would mean coming
20 down something along the UP alignment down towards San
21 Jose and back up or something like that. Do you have
22 any sense of what that will be?

23 MR. FREYTAG: Yeah. We studied one of the
24 network alternatives that we had on multiple maps there.
25 As we head across the Altamont coming across the Diablo

1 Range and then down to San Jose and then back up the
2 peninsula.

3 CHAIRMAN RICHARD: Can you comment a little
4 bit on the issues with that particular one?

5 MR. FREYTAG: I wish I had a photographic
6 memory from everything in there.

7 CHAIRMAN RICHARD: Let the record show that
8 Mr. Freytag was pointing to about a four foot stack of
9 documents and said that my answer would be in there
10 somewhere.

11 MR. FREYTAG: If you look in chapter seven
12 and chapter six of the document where we talked about
13 the -- we go through the recommendation of the preferred
14 alternative, we talk about the different network
15 alternatives and how they stack up to the recommended,
16 and I believe, you know, we had slower travel times
17 being probably one of the main things.

18 CHAIRMAN RICHARD: Yeah. That was -- I
19 mean, as I'm struggling with this, that was the
20 impression I got was that we'd be challenged on travel
21 time to meet the Prop 1-A requirements.

22 MR. SPAETHLING: Yeah. I'll elaborate a
23 little more on that. One of the interesting aspects of
24 this is the way it would come into San Jose would be
25 similar to how the BART station currently is configured

1 at SFO where you have to go in and then reverse
2 direction and then go back up the corridor and that --
3 at least in this document -- that would take twenty
4 minutes in itself to reverse the direction of the train.
5 And that's what the records state. So that, along with
6 this sort of semicircularis route of coming down to the
7 end of the Bay and then proceeding back up north to San
8 Francisco, has pretty significant effect on travel time
9 and most likely on ridership, too, and that's also part
10 of chapter seven, chapter six.

11 CHAIRMAN RICHARD: And I just want to thank
12 you since I was involved in that BART to SFO design and
13 alignment for pointing out that it's very kludgy.

14 Other -- Mr. Hartnett.

15 MR. HARTNETT: I have some more on this same
16 subject here but I can --

17 CHAIRMAN RICHARD: Robert.

18 MR. BALGENORTH: I was just curious if we
19 could ask Katherine Phillips again to guess how close a
20 call was that for, in your mind, between the Altamont
21 and the Pacheco, because it sounds like people are
22 saying that there's less environmental damage -- some
23 people are saying there's less environmental damage in
24 Pacheco Pass. You're saying it's the other way. How
25 close a call was that for each side?

1 MR. FREYTAG: You know, I think you have to
2 look at it in total in the whole -- of the whole network
3 alternatives going Altamont versus Pacheco. Altamont,
4 you have a lot more people living along the corridors as
5 opposed to animals and plants along the Pacheco
6 alignment and farmland. So you have a tradeoff of what
7 the impacts are. There's not one particular item that
8 puts us over another. It's looking at the total of the
9 environmental impacts.

10 MR. BALGENORTH: Can I hear what Katherine
11 had to think about that as well.

12 MS. PHILLIPS: Thank you. You know, the
13 thing about Altamont, when you mention a lot of people,
14 that means you have a lot of potential riders. The
15 thing about Pacheco is you do have these wildlife areas,
16 but you don't have a lot of potential riders. But what
17 you do have is the potential for inducing sprawl into
18 those areas. So you could indirectly, by putting the
19 train through that pass, also create greater harm to
20 that wetland and those birds than you would by putting
21 it in another place. It's not just the bird kills and
22 the bird strikes, which it sounds like is kind of a
23 wash. It is the sprawl inducement, which then has a
24 multiplier effect on the wetlands area, and just from a
25 transportation point of view, it sort of just makes more

1 sense to put the train where the people are, and
2 especially in this case, we'd be able to take greater
3 advantage of it from the Sacramento area and northern
4 San Joaquin Valley area.

5 MR. BALGENORTH: What about the 10,000 acres
6 that's getting -- that we're going to be putting in --

7 MS. PHILLIPS: In the Bay Area?

8 MR. BALGENORTH: Right.

9 MS. PHILLIPS: Well, you know, to be quite
10 frank, it would be our preference not to put it through
11 any wetland and that's why this -- my understanding is
12 there hasn't been a full analysis of this other blended
13 approach and while it would -- there would be slower
14 speed times, what I have been hearing is that that's
15 because the sort of quick and dirty analysis, not the
16 deep analysis, it's been, "Well, you can't straighten
17 out the route, and you can't make it. You can't make it
18 as fast as you should be able to."

19 I should emphasis that we support the measure of
20 high-speed rail and it's the idea of doing blended --
21 what we're really concerned about is to make sure that
22 we have something that is connected and works from the
23 get-go and something that actually gets done. And my
24 big concern in addition to the environmental impacts is
25 that if we continue to have this Pacheco versus Altamont

1 problem, we won't get to a point where we'll have
2 something on the ground. In doing this alternative
3 where you would go to where the people are and -- and
4 potentially avoid two -- or at least analyzing it
5 deeply -- and avoid two potential, you know, bird
6 impacts or wetlands impacts makes a lot of sense.

7 I think this board, from my impression, is
8 certainly more -- has been more open to this kind of
9 conversation than we have seen in the past, and I do
10 thank you for that, and thank you for listening to my
11 views on this.

12 CHAIRMAN RICHARD: I want to -- yes. Go
13 ahead, Mr. Freytag.

14 MR. FREYTAG: I just wanted to comment on
15 something. The sprawl doesn't occur because there's an
16 alignment there. The sprawl occurs because of the
17 station. The station location and placement is
18 determinate of where growth is likely to occur. So in
19 Prop 1-A, there's, you know, language in there that
20 there's no station between Merced and Gilroy.
21 Specifically, there's no station maintenance facility in
22 Los Banos but the potential for growth -- nobody, you
23 know, wants to just move out and live next to a rail
24 line -- is probably, you know, much, much less potential
25 than ground stations in an urban area.

1 MR. HARTNETT: Can I clarify that?

2 CHAIRMAN RICHARD: Go ahead clarify it,
3 Mr. Hartnett.

4 MR. HARTNETT: Yes. I think this might have
5 been lost as Mr. Balgenorth was making his comment, that
6 there's an authority obligation with respect to 10,000
7 acres -- of preserving 10,000 acres in the grasslands
8 area and I think that relates to this discussion as
9 well.

10 MR. BALGENORTH: I might have not been very
11 articulate in my question, but that was my question.

12 MR. HARTNETT: And so that comes into play
13 as well in determining the choice, and Mr. Chair, as
14 well, I think there's a difference in terms of the legal
15 status in some of the protected areas as well.

16 MR. FELLEENZ: Yes.

17 MR. HARTNETT: Maybe you can comment on that
18 as well because it also comes into the equation.

19 MR. FREYTAG: So the National Wildlife
20 refuge for Don Edwards was formed by an act of Congress
21 in, I believe, 1972. So it's protected. So any changes
22 or anything within it has to be approved by the
23 Department of the Interior, the Secretary of the
24 Department of the Interior. The GEA is -- there's a
25 long description of it in there, but let me just give

1 you kind of a short answer. It's a non-jurisdictional,
2 non-regulatory, generally designated area used by the
3 Fish and Wildlife to identify an area for priority
4 purchase, public easements for wetlands, preservation
5 and enhancement. And then within the GEA to the north
6 part of it -- it's a large area -- but within the north
7 part of the area, there's the San Luis National Wildlife
8 Refuge far away from this alignment.

9 CHAIRMAN RICHARD: Mr. Hartnett, if I might,
10 I would just like to exercise one prerogative as the
11 Chair, just out of what I think is a sense of fairness.
12 Ms. Phillips is a recognized environmental expert, and
13 we appreciate her answering questions, but it resulted
14 in her getting some additional time here. And I think
15 what I would ask is I'd ask those speakers to just be
16 fair with us on this specific question that we asked Ms.
17 Phillips, which related to the specific issue of the
18 relative impacts between the Don Edwards Wildlife Area
19 and the grasslands area wildlife as it pertains to our
20 decisions between Altamont and Pacheco, I would offer to
21 any of the prior speakers who care to comment on that,
22 the opportunity to do so, just so that we have a, a, a,
23 a -- just so that we have a fair opportunity for all
24 people to have an equal opportunity to address the
25 Board.

1 MR. SCHONBRUNN: David Schonbrunn. I
2 appreciate very much because I wanted to add a point to
3 what Ms. Phillips had to say and that is in the 2010
4 litigation, we filed a biological opinion that said that
5 the analysis done at the program level had been
6 inadequate because it did not look at comparing species.
7 It was so broad-brush in terms of acres of wetland that
8 it did not get to the issue of biological sensitivity,
9 and so you have no evidence in the record at this time
10 as to which of those wetlands areas is more biologically
11 sensitive and more biologically valuable. And in the
12 absence of that information, we've argued consistently
13 that you can't make a decision. Thank you.

14 CHAIRMAN RICHARD: Thank you, Mr.
15 Schonbrunn. Mr. Bigelow and then Mr. Flashman.

16 MR. BIGELOW: On the Dumbarton rail
17 corridor, it's a refurbishment of a regional commuter
18 rail service and it falls in a separate category with
19 respect to a rehabilitation of a corridor going through
20 the Don Edwards wildlife area, and the EIR/EIS that's
21 gone on, the biologists and everything involved in that
22 refurbishment to do a regional rail project have been
23 working out the sensitivities and the mitigations on
24 title actions and flows that were changed by the burn
25 back in early 1900s. So if you were to put in a new

1 rail, a new shadow, there was only one track that goes
2 across part of that, then it changes the whole project
3 with BCDC and you end up in years and years of
4 additional permit questions and so forth. Just -- so it
5 would take years for high-speed rail if it were to try
6 and go across over the water to go through the process.
7 And it's -- we've been at it a number of years with the
8 EIR/EIS already. So it's not simple.

9 CHAIRMAN RICHARD: Thank you, Mr. Bigelow.
10 Counselor, Mr. Flashman.

11 MR. FLASHMAN: Thank you, and I'm not going
12 to speak primarily as an attorney. I'm going to speak
13 as someone who used to be a biologist before I became an
14 attorney.

15 CHAIRMAN RICHARD: I think that's allowed.

16 MR. FLASHMAN: Okay. But I think there are
17 a couple of things that I think are very worth thinking
18 about here. One is that, you know, you do have the
19 court's litigation, and the court's litigation basically
20 said, "Yeah, you have got enough substantial evidence to
21 support your decision on biological issues on Pacheco
22 versus Altamont." Now, that's a legal standpoint.

23 I don't know that necessarily just the fact that
24 you've got some substantial evidence to support you
25 means that's the best choice. That's a legally

1 defensible choice, but it's not necessarily the best
2 choice or the right choice. And I think that's a
3 separate issue that you need to have in front of you is
4 thinking about what's the best thing to do here not just
5 what's legally permissible.

6 The other point I want to make -- and a couple
7 points -- one is on Dumbarton and using the Dumbarton
8 rail bridge as it's being proposed to being refurbished
9 that would fit with a blended approach. That is to say,
10 what the EIRs have looked at is saying, "Let's do a
11 high-speed rail bridge. Let's do a bridge that would
12 be -- what we'd like to do is a full steam ahead
13 high-speed rail going across the Bay at, you know, at
14 least 110 maybe 220 miles an hour," but if you did it
15 using the type of -- not using the type of equipment
16 that the Caltrain would use in terms of using diesel
17 locomotive, but if you did it using high-speed rail
18 equipment the same way it would be going down the
19 peninsula on the blended approach, then the -- what's
20 being done in refurbishing -- the only thing you would
21 need to change would be to add the electrification, and
22 then you could use it for both -- it wouldn't be ideal,
23 but it could work, and it might be faster than going
24 around, and so that's one point.

25 And then the other point is that you do have an

1 alternative that wasn't studied that would look at going
2 around and there's another alternative that even --
3 hasn't even really been touched, which is the idea of
4 going across parallel 237, which doesn't get you all the
5 way down into San Jose but does get you across without
6 going across the wetlands and going across the Bay.

7 CHAIRMAN RICHARD: Thank you. Mr. Tolmach,
8 on this narrow question.

9 MR. TOLMACH: Yeah.

10 MR. HARTNETT: As he's coming up, I do -- I
11 think that Mr. Flashman proved the point that attorneys
12 are human, too.

13 CHAIRMAN RICHARD: Correct. The record will
14 so show.

15 MR. BALGENORTH: I'm glad it wasn't an
16 attorney that said that.

17 MR. TOLMACH: I wanted to throw in one other
18 factor on the Don Edwards Reserve that the group that
19 sponsored and protected the refuge there is fully in
20 favor of using it for rail and for high-speed rail, and
21 they have been supportive on our side. So I feel that
22 this debate about the -- somehow going across there with
23 the train at a reasonable speed is somehow
24 environmentally damaging. We already have a highway
25 right next to us and -- your contract, you can improve

1 the title flows by just rebuilding engine up. You can
2 open up sections that are currently blocked off and
3 therefore don't have full adequacy for the wildlife
4 that's using it and improve the thing, and that's what
5 we were originally proposing was that mitigation be done
6 which actually improves the area and the refuge and
7 improves it as a habitat.

8 And the other thing I wanted to get to was that
9 the specific timings involved in a reversion of
10 direction on a high-speed train, gee, in Germany you
11 seem to be able to do it, Frankfurt in five minutes. I
12 don't see why in California we would take in twenty.

13 CHAIRMAN RICHARD: Thank you, Mr. Tolmach.

14 Mr. Hartnett, thank you. I just thought it was
15 important to make sure we had a fair opportunity for all
16 our citizens to speak.

17 MR. HARTNETT: Thank you. On the subject of
18 the environmental considerations, I have a question on
19 the Henry Coe State Park, because that was, I know, a
20 substantial point of discussion as this proceeded. How
21 now -- how is that now affected by the Pacheco
22 alternative?

23 MR. FREYTAG: It's not. It's -- the
24 alignment is further south than the Henry Coe state
25 park. We have 152 as a buffer as well, and, you know,

1 at the project level, as they move into additional
2 studies, there may be different elevation profiles, you
3 know, whether it's elevated or in the tunnel, being
4 looked at. So --

5 MR. HARTNETT: I just recall that it's --

6 MR. FREYTAG: It was.

7 MR. HARTNETT: -- a big point of discussion.
8 What about any state wildlife areas?

9 MR. FREYTAG: Pardon?

10 MR. HARTNETT: Any -- are there any -- in
11 the Pacheco alternative, the impact on state wildlife
12 areas.

13 MR. FREYTAG: Not within the GEA. You know,
14 we're south of the Los Banos wildlife area. We're
15 definitely well south of San Louis National Wildlife
16 Refuge along Henry Miller Road.

17 MR. HARTNETT: Okay. I'd like to -- I've
18 got some questions that are -- and these are generally
19 out of chapter six, which is the plan. I have other,
20 more specific questions as well. I want to ask about
21 the ridership, the conclusions of the staff in terms of
22 the ridership forecast.

23 How -- does -- are -- I take it that the
24 ridership forecasts are not in and of themselves
25 determinative of the selection of the Altamont versus

1 Pacheco. Is that a fair -- I mean, looking at the
2 broader picture. So you're not -- it's a factor --
3 environmental is a factor but the forecasts themselves
4 aren't determinative. Is that a fair statement?

5 MR FREYTAG: I would say it's part of the
6 overall package of everything that we're looking at.

7 MR. HARTNETT: Okay. The -- as I look at,
8 you know, part of our -- as we're, you know, going
9 through the environmental documents, you know, I'm
10 struck by the reference to the people or cities or
11 organizations that support one thing over another, and,
12 you know, how that is a factor. And I look at that as,
13 as people make their comments that they are important
14 for us to know what people are thinking. It helps hone
15 in on important issues but it's not -- we're not on a
16 board saying, "Well, how many people or organizations
17 are on this side, and how many on that side." That's
18 not how we're supposed to look at this. We should be
19 informed by and educated by the comments, but it's not
20 raw numbers. So I -- sometimes in the report it almost
21 suggests that, "Well, gee, this many people say this and
22 this many people say that," and it's -- I -- to me,
23 that's not the proper balance, and I don't think the
24 report is intending to be that way.

25 Secondly, when we hear people and organizations

1 and opinions, then we -- we want to hear all the
2 opinions, but the opinions are not necessarily based
3 upon factual data. You know, they are gut feeling, they
4 are political philosophy. There are all sorts of
5 different rationales for opinions. So to me, our job is
6 to really step back and independently look at the record
7 and the data. And that's our role, not to count the
8 numbers but to really look at the data and be
9 comfortable that it's accurate and that when we're
10 striking a balance, it's not just based upon who wants
11 what, but what are the appropriate considerations to
12 balance in.

13 So I make that as a general comment because I
14 think it's important. It's so important for us to hear
15 people's opinions because it helps us focus, but I think
16 we have to make sure that we're doing our fiduciary role
17 as we look at the record.

18 You know, and that reminds me on some of the
19 other parts of chapter six that I'd like to just briefly
20 touch on. You know, I notice, you know, there's -- on
21 the Monterey Highway issue in San Jose -- I know we have
22 addressed that as required. I believe we have addressed
23 that as required by the court, but it's an interesting
24 conundrum to me in which I think the plaintiffs in the
25 lawsuit are not from cities that are affected by the

1 Monterey Highway issue. It's the City of San Jose and
2 the changes that would be made seem to be consistent
3 with and embraced by San Jose and in their plan. So
4 it's just one of those interesting things that you see
5 people from one community, you know, file a lawsuit over
6 issues that are in another community in which they're --
7 in which they're not affected and that community wants
8 to have those changes. And I know that's still not --
9 we're not supposed to -- I take it we're still supposed
10 to step back because we need to look at those Atherton
11 lawsuit claims and make sure that we're doing the right
12 thing even if San Jose fully embraced it. So I
13 understand that, but it's just an interesting commentary
14 on how the system works sometimes.

15 MR. BALGENORTH: I would agree with you that
16 it's important that we step back and look at issues, and
17 I'm particularly interested in what a lot of the people
18 on both sides had to say today because that's how they
19 view staff report because they put a lot of effort into
20 this as well. So I think that it's productive to have
21 everyone spend a little more time than the two minutes,
22 and I think we have done that here today, gotten a
23 better understanding of the issues that are -- that are
24 being presented by various organizations. So it will
25 make it -- I don't know if it makes it easier for me to

1 make a decision because there's a lot of literature that
2 we've -- or a lot of things that we have discussed.
3 There's a lot of things that we have read, but I just
4 want to make sure that the staff has considered all the
5 input from all -- each of those other sites so that we
6 can be sure we're making the right decision when we go
7 forward.

8 MR. HARTNETT: And as I read the entire
9 report, and in particular on chapter six, there's no
10 doubt that there are -- the Altamont alternative has a
11 lot to commend it. I mean, there's -- as you look at
12 it, it truly is a balance and I think -- I can see why
13 people would think it's a close call because there's
14 something to be said for both, and I appreciate that
15 that's presented in such a way that we can step back and
16 look at it as we see it, and we get to make that
17 balancing decision rather than the staff. And so I
18 appreciate that the data is there.

19 I think those are -- the -- I think I've gotten
20 most of my questions out, Mr. Chair.

21 CHAIRMAN RICHARD: Thank you very much,
22 Mr. Hartnett.

23 Vice-Chair Richards.

24 MR. RICHARDS: Thank you, Mr. Chairman. And
25 I appreciate many of your questions, Director Hartnett,

1 and I have been rapidly checking mine off as you've gone
2 through them, but I'm struck by a couple of things that
3 I'd like to ask staff.

4 One, in your comments with regards to general
5 considerations and fiduciary roles and responsibility,
6 as we have read through these documents in various
7 areas, we also discuss cost. And certainly, we're
8 responsible -- or responsive to costs and the manner in
9 which we manage the taxpayers dollars. What I'm
10 interested in is from a CEQA perspective, how do
11 costs -- how do we -- how do we import the costs into
12 the decision-making process in addition to other
13 environmental factors?

14 MR. FREYTAG: Well, for -- what we did in
15 these documents, cost was a component of everything that
16 we looked at. So, you know, not one issue really
17 outweighed the other. It was looking at everything
18 across the spectrum equally, trying to, you know,
19 identify which would be the most superior alternative
20 and so forth.

21 MR. RICHARDS: It makes it even more
22 difficult. I mean, in some ways it almost ends up being
23 the leveraging factor, because as Jim did say, as you
24 look at the Altamont and the Pacheco Pass alternatives,
25 I mean, there's a lot to be said with either one of

1 them. And so in some instances as I have read through
2 this, costs really become a major factor in
3 consideration as certainly given the importance of cost
4 to taxpayers.

5 I'm wondering also is there anything in importing
6 the idea of this blended system that causes any issues
7 or concerns with regards to the court order of last
8 November with the results of the Atherton I and II
9 litigation? In other words, the contemplation of a
10 blended system was not inconsistent with what we were
11 able to move forward on today.

12 MR. FREYTAG: Correct. The blended system
13 is an implementation strategy of the overall project.

14 MR. RICHARDS: Okay.

15 MR. FREYTAG: And we did discuss that
16 specifically in chapter five of the revised -- partially
17 revised document.

18 MR. RICHARDS: Thank you. And with regards
19 to something that I had read also, and I'm not sure if
20 you mentioned it earlier with regards to station stops
21 between Merced and Gilroy, is there any likelihood that
22 with our action today that would change, in other words,
23 by future boards and future decisions?

24 MR. FELLEENZ: I'd like to just -- speaking
25 of that, under proposition 1-A right now, there's a --

1 it prohibits a station between Merced and Gilroy. So
2 theoretically there may be an opportunity to change that
3 law, but in fact, it would have to go back to the people
4 as a -- for amendment to that Prop 1-A law. So -- as an
5 initiative, and it's probably very unlikely.

6 MR. RICHARDS: Thank you, Mr. Fellenz. Just
7 with regards to responsiveness to the public comments
8 today, which I found extremely helpful, from staff's,
9 management's perspective, is there anything here today
10 that you have heard that causes you to perhaps suggest
11 to us that either we haven't studied this or considered
12 the comments that have been raised here today to a level
13 that we would feel comfortable that we have performed
14 the responsibilities that we have in looking at all of
15 the environmental alternatives and implications of this
16 action today?

17 MR. FELLEENZ: No because, you know, as I
18 said, we have had extensive public participation
19 throughout this process. We have responded to almost
20 5,500 comments specifically, and in each of those, we
21 responded, you know, with specific answers, and if they
22 had, you know, some relevance to the document, we made
23 sure the documents were updated with that specific
24 information. So I think, you know, what we have heard
25 today and what we can continue to hear are items that we

1 have studied at some point through the document process.

2 MR. RICHARDS: Okay. Do you agree with that
3 also, Mr. Fellenz?

4 MR. FELLEENZ: Yes, I do.

5 MR. RICHARDS: Thank you, Mr. Chair.

6 CHAIRMAN RICHARD: Thank you. Other
7 questions from other members?

8 Mr. Schonbrunn, you referenced a letter. Did you
9 send us a letter today?

10 MR. SCHONBRUNN: I did, yes, and there's a
11 copy with your clerk.

12 CHAIRMAN RICHARD: One copy. Okay. Just so
13 that the -- just so that we have that on the record. I
14 understand.

15 Okay. I have not seen this until this moment.
16 We also have a letter from Mr. Flashman that I think
17 most of us have seen. What I'd like to suggest at this
18 moment is that we take a break just until noon, about a
19 seven- or eight-minute break. I'd like to look at this
20 and make sure that the members have an opportunity to
21 avail themselves to review it.

22 I think that, you know, this board understands
23 the significance of this decision, and I know that we've
24 gone through these materials. We want to make sure that
25 we're hearing from and considering all the things here.

1 So why don't we break until noon -- maybe five after
2 noon.

3 And then let me just say to -- Mr. Schonbrunn,
4 you have other copies with you? One more copy. Thank
5 you, sir.

6 Okay. We'll break until five after noon, and let
7 me just say to the rest of the public, I do understand
8 everybody's items before us are important today. We do
9 have this as a legal matter that we have to do, which is
10 why we put it first. So I appreciate people's patience,
11 and then once the Board acts on this, we'll begin with
12 the public comment of the next item. So we'll be in
13 recess for what looks like ten minutes right now. Okay.
14 Thanks.

15

16 (Break taken.)

17

18 CHAIRMAN RICHARD: If we could reconvene,
19 please. Thank you. Okay. We've had questions -- oh,
20 I'm sorry. We need to wait for Mr. Umberg. Um, ask if
21 someone -- yes. We're a little thin on quorum today.
22 Oh, he's here. Thanks.

23 Okay. We'll reconvene. Members, I know we've
24 gone through questions prior to -- what's the pleasure
25 of the Board in terms of taking action today? Any

1 comments or thoughts that members want to share,
2 dialogue, discussion?

3 Mr. Hartnett.

4 MR. HARTNETT: Yeah. I'm prepared to take
5 actions today on the six items that are in the
6 recommendations. You know, I thought that Mr. Flashman
7 made an excellent point about, you know, even if we have
8 the legal justification to make the decision in a
9 particular way, I guess we'll have to step back from
10 that and say, "Well, what's the right decision" beyond
11 the fact that it's legal, and we may have, you know,
12 more than one legally acceptable alternatives.

13 And so -- and I, you know, read the materials and
14 listened to the testimony and heard the staff report.
15 As this relates to the alternative question, I mean, I
16 feel that there is a lot to commend both of the
17 alternatives, alignments, both the Altamont and the
18 Pacheco. And so I think that in that, it means we --
19 you know, you have to -- from my perspective, you really
20 have to look at it and say, "Okay. How do I balance the
21 various considerations," and I don't want to -- I'm not
22 relying just on the document in terms of the staff
23 recommendation as to how to balance. I think it's -- we
24 get to render our own balance, and in doing that, it --
25 just frankly, we have a lot to commend each.

1 In my heart of hearts, I still think that Pacheco
2 is the preferable alternative. And so there's a bunch
3 of factors that go into it. They're addressed in the
4 revised plan, and so that's just how I look on the
5 alternate, alternative question and the choice of how
6 that comes down.

7 I think in terms of the technical issues of, you
8 know, certifying, I think that the document adequately,
9 from a legal point of view, addresses that those things
10 that the court required to be addressed, and so I'm
11 comfortable with that. And I know the issue of the
12 blended approach is a hot topic obviously, and, you
13 know, that's probably a closer call than some of the
14 other issues. But, you know, I think that has been
15 dealt with the best it can from a programmatic level
16 based on the stage of where that is, and there's
17 substantial more work that would have to be done on that
18 at the second tier level, which is why I think that with
19 the recommendations, there's been direction to both
20 proceed with the second tier environmental plan and to
21 direct the staff in that for the San Francisco to San
22 Jose segment to focus on the blended system approach,
23 and I think that's the appropriate place for that to
24 land at this point.

25 So those are my comments on -- I think that

1 really relates to all six of the action items that
2 are with this particular agenda.

3 CHAIRMAN RICHARD: And I apologize,
4 Mr. Hartnett, because I was looking at something. So in
5 terms of action today, what were you --

6 MR. HARTNETT: There's only one or two
7 brilliant points that you missed but I feel that -- I
8 feel informed sufficiently based upon the documents and
9 the testimony and the verbal staff report as well as the
10 conversations that we've had here at -- in public. I
11 feel informed sufficiently to be able to make a decision
12 and to move on the six action items that are a part of
13 the recommendations.

14 CHAIRMAN RICHARD: Okay. Okay. Other
15 comments, so forth?

16 I appreciate that, and I just I also feel we
17 should move forward today. This is a -- this is a
18 difficult decision. Obviously, one that our
19 predecessors, probably Director Umberg was part of this,
20 have faced before. I just -- I wanted to make two quick
21 points.

22 First of all, in terms of the statement of
23 overriding conditions that was offered up today that was
24 a redline document provided, it really was -- those
25 redline changes were really put in there for the purpose

1 of reflecting some of the thinking and changes that came
2 out of 2012 revised business plan. There's two issues
3 in my mind. One is the question of the network
4 alternative, Pacheco versus Altamont. And the other is
5 the -- this issue that has been raised.

6 And, Mr. Hartnett, I want to just, again, thank
7 you for your tremendous work on the blended system
8 issue.

9 Let me deal with that one first really quickly,
10 which is one of our speakers today, Ms. Hamilton, made a
11 point that we've been talking about the blended system,
12 but we're -- we're really not trusted, and that comes
13 with the territory I suppose, but I think that there's
14 no question if one looks at the range of decisions that
15 this board has made over the past six or seven months
16 that we do see the blended approach as the -- as an
17 appropriate way to build a high-speed rail system in
18 California. The language that has been proposed today
19 would indicate that as we go forward at the project
20 level, not the program level but at the project level,
21 that we would be directing staff to work -- I believe
22 the language says primarily on the -- on the blended
23 approach, I'd actually be -- I would actually be
24 amenable to a slight revision of that, you know, to say
25 exclusively on the blended approach, because I think

1 that's really been the sense of the -- of this board.

2 So while I know that there are still some
3 questions, because we're not changing that part of the
4 programmatic EIR, I do think that we want to make it
5 very clear, at the project level, that is the direction
6 that we're giving staff. It's also important to note
7 that in adopting this language, we're not -- we're
8 not making a decision today with respect to that
9 blended -- operation of blended system -- but we are
10 saying that as we move from the program level to the
11 project level, staff is directed, and I would say if my
12 colleagues agree to, to focus solely, to use the word,
13 on the blended approach of the peninsula, which brings
14 me to the issue of the Altamont versus Pacheco.

15 This is very difficult for me, because I came to
16 this board probably with some layperson's opinions about
17 it. I've had to inform myself from the record over the
18 last several months, and in the last week or so, inform
19 myself more fully by reviewing these documents, which I
20 have be doing. It's a lovely way to spend a Sunday
21 afternoon, and, you know, as I listened to the various
22 speakers. I guess I am -- I am concerned that I would
23 like to believe that we can handle the growth-inducing
24 issues on a Pacheco route. I do understand that the
25 Altamont route is alleged to have greater connectivity

1 to other systems, but there may be some things as we go
2 forward, particularly, given our work with Caltrain and
3 BART to San Jose and so forth, but I think I can address
4 some of those issues, and there may be other ways to
5 deal with this.

6 My biggest concern is just that we do have the
7 problem with a train splitting serving San Jose and the
8 time requirements, and that's where I'm concerned that
9 our mutual responsibilities of minimizing environmental
10 impacts and also addressing the legal requirements of
11 Prop 1-A need to be harmonized. So I think that that
12 probably is, is the direction that we need to go based
13 on the record that we've got before us and the testimony
14 that we have had before us today.

15 Any other members want to make any comments at
16 this point? Motions?

17 Counsel, let me just ask, in terms of
18 formalities, are there things at this point -- is it
19 typically a motion, or how should we proceed?

20 MR. FELLEENZ: What you have before you is a
21 resolution, 12-17, and so that's what you would be
22 adopting. But I just encourage you, Mr. Chairman,
23 indicate that you want to have a more direct or -- not a
24 preference but a direction to staff more clearly that we
25 move to the blended system approach. So I have a

1 resolution here and I'd just like to come up and -- may
2 I approach the bench and give this to you so that you
3 can see the exact language and maybe suggest language
4 changes?

5 CHAIRMAN RICHARD: Absolutely. Right. So,
6 members, right now this reads, "The Authority further
7 directs staff that a second tier project level EIR for
8 the San Francisco-San Jose section of the high-speed
9 train system shall be focused on a blended system
10 approach." I would suggest adding the word "solely,"
11 S-O-L-E-L-Y, after the word "focus."

12 Mr. Hartnett, are you comfortable or
13 uncomfortable with that?

14 MR. HARTNETT: As long as it passes legal
15 muster, I'm comfortable with that. I think it's a good
16 word to add.

17 CHAIRMAN RICHARD: Okay.

18 MR. FELLEZN: That would be fine. You could
19 add that word. There wouldn't be any legal problem.

20 CHAIRMAN RICHARD: Okay. With that, do I
21 have a motion?

22 MR. HARTNETT: Mr. Chair, I'd like to move
23 the resolution as stated with the one-word amendment
24 that was just inserted and include it as the revised
25 statement of overriding considerations and the -- of the

1 addendum to the partially revised final program EIR that
2 we have as part of our packet as well.

3 MR. RICHARDS: I second that, Mr. Chair.

4 CHAIRMAN RICHARD: It's been moved by
5 Mr. Hartnett, seconded by Vice-Chair Richards.

6 Secretary, please call the roll.

7 MS. MOORE: Vice-Chair Richards.

8 MR. RICHARDS: Yes.

9 MS. MOORE: Mr. Umberg.

10 MR. UMBERG: Aye.

11 MS. MOORE: Mr. Hartnett.

12 MR. HARTNETT: Yes.

13 MS. MOORE: Mr. Balgenorth.

14 MR. BALGENORTH: Yes.

15 MS. MOORE: Chairman Richard.

16 CHAIRMAN RICHARD: Yes.

17 I want to thank Mr. Fellenz and all the staff we
18 heard from today, Mr. Freytag and other members of
19 staff. I want to thank our attorney support team from
20 the Attorney General's office, who has helped us with
21 this, and the last point I want to make on this is that
22 High-Speed Rail Authority is very interested in doing
23 the environmental -- doing the environmental work in the
24 right way. I think it should be noted that when the
25 judge's preliminary ruling came out, we did not wait for

1 a final ruling. We did not appeal that. We began
2 immediately to try to remediate the deficiencies that
3 were identified in the environmental documents, and so a
4 lot of people worked very hard over the holiday season
5 to deal with that. I just want to express gratitude,
6 I'm sure, on behalf of all my colleague on the Board.
7 So thank you.

8 Members of the public, thank you for your
9 patience. We'll now proceed to public comment, and we
10 will start with elected officials and take these
11 comments in the order in which they were received.
12 We'll begin with Fresno supervisor, Henry Perea, the
13 hardest working man in show business.

14 MR. PEREA: Mr. Chair and members of the
15 commission, a lot of hardworking people in this room, a
16 lot of important decisions need to be made and thank you
17 for your leadership once again.

18 Just a brief update, business plan receiving very
19 good responses in Fresno County. Our teams are out in
20 public engagements every day talking to groups, talking
21 about the financing questions, and there's a lot more
22 clarity to the direction we're heading in, in high-speed
23 rail, and a lot of that is because of the hard work that
24 you have done, and so thank you for that effort.

25 You know, Mr. Hartnett, you made a comment

1 earlier that prompted this comment that's coming with
2 respect to opinions, and in fact, it will be grounded on
3 facts and sometimes just on opinion, and, you know, I
4 was struck yesterday with the hearings that are
5 occurring, and I know there's folk who are concerned
6 about high-speed rail, and they will continue to be
7 until it's done, but that's just the way it is, and
8 that's okay. But what concerned me yesterday was the
9 presentation by the LAO office at the Senate. I think
10 it was very opinion-based, very inappropriate in how
11 they presented themselves and how they treated
12 representatives of the Authority. I think if they would
13 have read the business plan, probably most of their
14 questions would have been answered, and they would have
15 understood and remembered their goal is to provide
16 independent analysis and review and recommendations, and
17 I think all they did was show folks yesterday why it was
18 not a good idea and not weigh the advantages or the
19 opportunities of high-speed rail, but I think they have
20 a credibility issue, I think with a lot of folks, but
21 I'm speaking, obviously, as a Supervisor representing
22 Fresno County, but I'm raising the point in their
23 presentation. But by saying that, I
24 want to compliment you again by staying this course,
25 doing what you have to do to get this project to move

1 forward, so thank you very much.

2 CHAIRMAN RICHARD: Supervisor, thank you.

3 Supervisor Richard Valle from Kings County.

4 Supervisor, thank you for your patience this
5 morning.

6 MR. VALLE: Good morning, Mr. Chair.

7 Richard Valle, Kings County. Mr. Chair, I realize that
8 this is the third time in the last 24 hours that I have
9 given testimony before you, but I think we can both
10 agree that we have a lot of catching up to do.

11 CHAIRMAN RICHARD: Yes, sir.

12 MR. VALLE: I want to thank you for coming
13 to Kings County on Tuesday April 3rd. We look forward
14 to having you back with the Board of Supervisors on May
15 9th, but as you heard yesterday in the assembly in the
16 Senate hearings, we continue to be disturbed that
17 although we have physically been here before your board
18 many times to voice our concerns on the negative impacts
19 to Kings County of this project and, specifically, to
20 relay the importance of our Amtrak stations in the City
21 of Hanford and the City of Corcoran, to see the language
22 that was adopted last week by this Board that lays out
23 the plan for the closure of those Amtrak stations
24 continues to send the message that we are still being
25 ignored.

1 Members on topics of the shortcoming as outlined
2 by the LAO office yesterday at the Senate hearings, I'm
3 here to represent those real problems in Kings County.
4 My hometown, the City of Corcoran, we're facing three
5 possible alignments that will destroy our downtown and
6 to now be looking at the loss of our Amtrak station,
7 that's going to affect real people. Every morning like
8 right by that station, you see the same group of folks
9 out there waiting to take that train, that Amtrak, to
10 get them to their places of business. They're not there
11 to take that Amtrak to go on vacation. They're there to
12 go to work.

13 So again, members, I represent to you that Kings
14 County, we're in the fight of our lives, and we look
15 forward to seeing you May 9. Thank you, Mr. Chair.

16 CHAIRMAN RICHARD: Supervisor, let me just
17 say quickly, number one, that you are right. Our
18 business plan did indicate the shift of the Amtrak
19 service, and so you are right to be standing here
20 protecting your community the way you are. I just want
21 to give you assurances that we will work with you and
22 our sister agency Caltrans to have a rational plan for
23 protection of that service.

24 MR. VALLE: And I appreciate that,
25 Mr. Chair, just as long as that is your projected

1 statements no matter what audience you're in front of.

2 CHAIRMAN RICHARD: That's right.

3 MR. VALLE: Thank you, Mr. Chair.

4 CHAIRMAN RICHARD: I look forward to seeing
5 you again, Mr. Supervisor.

6 We next have a request that -- the Mayor of
7 Palmdale, Jim Ledford, could not be here in person, but
8 Mr. Behen is here, and I believe that the Mayor is going
9 to join us through the magic of electronic technology,
10 with fingers crossed.

11 Someone needs to switch the screens in the back.

12 MR. LEDFORD: The State High-Speed Rail
13 Authority's decision to embrace the Antelope Valley
14 alignment truly is proven to be the right decision. The
15 City of Palmdale has a long history of involvement with
16 high-speed rail and the State of California, and once
17 again, we have been able to prove that the Antelope
18 Valley alignment is in the State of California's best
19 interest in regards to employment, economic development,
20 air quality, meeting air quality goals for the region,
21 and certainly congestion management are all benefits of
22 a high-speed rail system through the Antelope Valley.

23 Now, here we are at the Palmdale Transportation
24 Center, where it really is the investment by the city
25 thus far in our intermodal system here in Palmdale with

1 a metro-link platform and station, bus, transfer, taxis,
2 bikes all come together here in Palmdale at this
3 location. However, the State High-Speed Rail now
4 connecting will reenforce that investment, and it will
5 allow specific plans for transit to move forward where
6 transit-oriented development has room to grow, and we
7 have a specific plan put together just for that use here
8 in Palmdale, and Palmdale really is posed to be a
9 designation for a true interstate high-speed rail
10 system, when you look at what Dessert Express is doing
11 and our ability to connect to that, and I see seamless
12 service from Los Angeles to Las Vegas or San Francisco
13 in your future.

14 The Authority's business plan embracing the gap
15 closure between Palmdale and Bakersfield truly does
16 bring a complete system to the State of California, and
17 our investment in the blended approach allows us to
18 realize benefits we have already invested in as far as
19 our transit system that we know in Los Angeles right
20 now. To connect to that blended system allows us to
21 realize a synergy and a leveraging of that investment to
22 what I believe is going to stimulate those existing
23 systems. It's going to bring increased ridership and I
24 think greater viability long-term for our transit plan
25 for southern California.

1 So the genius, I think of a blended approach,
2 does realize that investment. It does recognize the gap
3 closure between Palmdale and Bakersfield, and it does
4 work with what the region has already determined to be
5 our priorities, and currently, regional population
6 forecasts estimate the Antelope Valley population could
7 exceed one million by the year 2020.

8 Palmdale is the linchpin to moving this project
9 forward and finding early operational success. So we
10 believe the High-Speed Rail Authority's decision to come
11 to the Antelope Valley with a stop in Palmdale at the
12 Palmdale Transportation Center truly is in the State of
13 California's best interest, and we believe that you are
14 working with the synergy that already exists here in
15 Palmdale.

16 CHAIRMAN RICHARD: Okay. Thank you. That's
17 making me wonder if I could send a video of myself to
18 the Kings County Board of Supervisors' meeting. Just
19 kidding, Supervisor.

20 Our next speaker is the City Manager of Corcoran,
21 and I apologize. Is that Kindon Meik?

22 MR. MEIK: Correct.

23 CHAIRMAN RICHARD: Oh, good. Mr. Meek, good
24 afternoon.

25 MR. Meik: Thank you, Mr. Chair, members of

1 the Board. I express gratitude foremost for your
2 assurances to reconsider and look at the issues dealing
3 with the Amtrak services to our community. Representing
4 the City of Corcoran, I want to note that we have
5 previously submitted resolutions and letters opposing
6 high-speed rail for the loss of jobs, farmland, and
7 neighbors, and also the environmental justice issues
8 that have not been -- or that have been overlooked in
9 the EIR.

10 At this time, I just want to address, again, the
11 Amtrak services and the proposed elimination of those
12 services to our community. Amtrak makes twelve stops
13 daily to Corcoran. In the fiscal year 2010, there were
14 approximately 27,000 boardings from the City of
15 Corcoran. Residents rely on Amtrak for employment
16 opportunities, medical services, education endeavors,
17 they carry out activities at the county offices in
18 Hanford, and they use the Amtrak to connect to regional
19 hubs outside the county.

20 Furthermore, I hope the Board understands that
21 the loss of the Amtrak would not only cripple those
22 services, but it would also decimate our city-owned
23 transit, our bus system, that relies on Amtrak and is
24 intricately connected to that, so thank you.

25 CHAIRMAN RICHARD: Thank you, Mr. Meik. Let

1 me repeat to you what I said to Supervisor Valle. We
2 will commit to working with you, and we understand the
3 importance of the service in your community.

4 MR. MEIK: Thank you.

5 CHAIRMAN RICHARD: Okay. Next we have
6 Stephen Valenziano followed by Michael Murphy followed
7 by Michael Behen.

8 MR. VALENZIANO: Mr. Chairman, Board
9 members, my name is Steve Valenziano. I'm a resident of
10 Santa Clarita, and I'm here today representing a
11 community working group or task force, which has been
12 formed to gather community input on the high-speed rail
13 project in order to convey to high-speed rail
14 authorities the issues and concerns our community has
15 with high-speed rail. I'm also a development partner in
16 the 90-acre approved Vista Canyon, which would be
17 impacted by high-speed.

18 By way of overview, our community task force
19 agrees with the California State Legislative Analyst
20 Office that the legislature should delay any decision to
21 proceed because there are so many funding uncertainties.
22 At this juncture, the State would be taking a large and
23 unprecedented risk. Unfortunately, in California's
24 current condition, there's too much economic and
25 budgetary uncertainty and too much political disfunction

1 to pull off such a massive public works project.

2 What is much more certain however, should the
3 project actually happen, is the negative impact the
4 high-speed rail project, given the alignment of the
5 study, will have on our community. The first negative
6 impact of primary concern relates to school safety,
7 high-speed rail's plan to run within four hundred feet
8 of two adjacent elementary schools containing over 1,000
9 children. The train is slated to be running at 200
10 miles per hour. The engineers have told us not to worry
11 about the possibility of accidents or derailments, but
12 the Sulfur Springs School District and the community are
13 very worried. Beyond the issues of safety, school
14 officials are concerned about the frequency, noise and
15 vibration of the trains, and adverse effects on the
16 learning environment.

17 Of course, there are other negative effects as
18 well. Large trenches and actual changes to the
19 landscape on the east side of the Santa Clarita Valley
20 with no benefit accrued to anyone in the Santa Clarita
21 Valley. Sound, vibration, and view impacts will effect
22 over 2,000 homes in the area. Alignments under
23 consideration would take at least 23 homes and a church
24 along with a major 90-acre nearly approved mixed use
25 project slated to be the new job center for the eastern

1 side of town.

2 In conclusion, the Santa Clarita Valley
3 High-Speed Rail Task Force earnestly requests that if
4 and when high-speed rail finds its way south of Palmdale
5 that you continue to utilize the Antelope Valley
6 metro-link line under the recently adopted blended
7 approach sparing our community from the high-paying,
8 no-gain intrusion of high-speed rail. Thank you, sir.

9 CHAIRMAN RICHARD: Thank you.

10 Mr. Michael Murphy followed by Michael Behen.

11 MR. MURPHY: Good afternoon, Chairman
12 Richard and members of the Board. I'm Michael Murphy.
13 I'm the intergovernmental relations officers for the
14 City of Santa Clarita, and I am here at the request of
15 the City Council. The City of Santa Clarita is located
16 in northern Los Angeles County. We're a city of 180,000
17 people immediately north of the City of Los Angeles.
18 The area that is contained within your Agenda Item 9
19 regarding the supplemental analysis for the Palmdale
20 Sylmar area, we are included in that segment.

21 As noted in the staff report, the City Council
22 has not as yet taken a formal position regarding
23 high-speed rail. In the City Council study session in
24 September of 2010, the council indicated that there were
25 concerns over noise, vibration, and impacts -- or visual

1 impacts to neighborhoods in the eastern portion of our
2 city but I want to point out that the council has some
3 very special concerns at this point in time regarding
4 the proximity of the proposed alignments that are in
5 front of you today to two schools in our community. As
6 you heard earlier, they are approximately 400 feet away
7 from the proposed alignments.

8 One option that was looked at earlier and was
9 referenced in your staff report is to extend an existing
10 tunnel an additional two miles east, which would go
11 under some of the neighborhoods that are potentially
12 impacted, Vista Canyon Ranch Project, which the council
13 had previously approved and there's job a creation
14 center in that part of our city, and it's been
15 eliminated at the staff level, and I would ask on behalf
16 of the City of Santa Clarita that you put that
17 consideration of an additional tunnel back into your
18 EIR.

19 Also, the City Council would encourage the
20 Authority's Board of Directors to continue to direct
21 your staff to have meaningful dialog with the citizens
22 of our community. Your recently adopted business plan
23 is a significant change to our community, and the City
24 Council believes it's very important that the dialog
25 continue in a very meaningful way.

1 On behalf of the Santa Clarita City Council,
2 thank you for your consideration of my comments.

3 CHAIRMAN RICHARD: Thank you very much, sir.
4 We appreciate your coming here today.

5 Mr. Behen.

6 MR. BEHEN: Good afternoon, Mr. Chairman and
7 members of the Board. Thank you, first of all, for
8 allowing us to present the video message from Mayor
9 Ledford. We appreciate it.

10 CHAIRMAN RICHARD: I should have known when
11 a politician told me it was only going to be two minutes
12 that it was not going to be.

13 MR. BEHEN: Right around there. I actually
14 got to be a coproducer in the deal, so it was my first
15 time. It was kind of fun.

16 Anyhow, we understand that the alternative
17 selection process is difficult, but we're very excited
18 to move forward, and we're ready to embrace this.

19 Adding a few more comments to what the Mayor had
20 to say is we feel we set the foundation to accommodate
21 high-speed rail. We have made necessary investment,
22 infrastructure investment, and again, we're committed
23 and excited about high-speed rail in Palmdale and the
24 Antelope Valley.

25 In terms of the alignments, I think we have been

1 on record in mentioning, and the Mayor said it again,
2 that the Palmdale Transportation Center, which is an
3 existing metro-link station is along the easterly
4 alignment. So we would -- hopefully, when the
5 environmental document goes through, the selection will
6 be an easterly alignment in connection to the Palmdale
7 Transportation Center.

8 The PTC, as it's known, is the center of existing
9 future modes of transportation. It is also part of the
10 specific plan, which is a trans-oriented development,
11 and we see it has a great opportunity to expand this
12 area to accommodate a future high-speed rail station,
13 and we believe that it provides the best opportunity for
14 multi-modal connectivity.

15 As the EIR process moves forward, we'd be happy
16 to answer any questions and provide any data, and again,
17 Palmdale is very excited about high-speed rail. Thank
18 you.

19 CHAIRMAN RICHARD: Thank you, Mr. Behen.

20 Jesus Vargas followed by Craig Martin followed by
21 Marvin Dean.

22 MR. VARGAS: Good afternoon. My name is
23 Jesus Vargas, principal at VSCE a DBE firm. We provide
24 program management, construction management, and public
25 relations. I'm here representing the California

1 Hispanic Chamber of Commerce. We're in support of
2 the -- Item Number 7, the Draft Small Business
3 Disadvantaged Enterprise Program. Specifically, wanted
4 to highlight three areas that we're in support of, which
5 includes the added reporting. We definitely would like
6 to see the small goals broken out by group, SB/DBE,
7 minority-business type, women-business type. The second
8 item we'd like to highlight is the enhanced outreach
9 that has been identified that's going to be augmented to
10 highlight the different opportunities for the small
11 businesses in the DBEs. And the third area is that of
12 offering the chamber -- we'd like to offer to stay
13 involved as the program gets unfolded. There's going to
14 be, I guess, a business advisory council that's going to
15 be discussed a little later. We're glad that one of our
16 representatives is identified. So we look forward to
17 staying engaged.

18 I feel that -- taking off a part of my hat --
19 that an independent outreach effort could be done better
20 if they reported directly to the High-Speed Rail
21 Commission and look forward to enhancements in that
22 areas. So thank you much. Gracias.

23 CHAIRMAN RICHARD: Thank you. Good luck.

24 Next is Craig Martin -- good afternoon, sir --
25 followed by Marvin Dean.

1 MR. MARTIN: Mr. Chairman and members, my
2 name is Craig Martin. I represent the Chairman of the
3 Senate select committee on procurement. He wants to
4 offer his support for the California High-Speed Rail
5 Authority small business and disadvantaged business
6 enterprise program. As Chair of the Select Committee on
7 Procurement, he wishes to express his support for the
8 California High-Speed Rail Authority revised Small and
9 Disadvantaged Business Enterprise Program and urge the
10 California High-Speed Rail Board to approve this vital
11 program. The committee's mission is to ensure that
12 small businesses still participate in State contracted
13 and procurement opportunities. As part of his
14 commitment to this goal, he has authored legislation,
15 Senate Bill 734 initiative actually, which requires the
16 California High-Speed Rail, among other things, to
17 create a small business outreach and retention as well
18 as establish a participation goal on this multi-billion
19 dollar infrastructure project.

20 He wants to thank the California High-Speed Rail
21 for taking the initiative to pursue these same goals for
22 SB and DBE programs. He further wants to acknowledge
23 the executive staff members, Chris Ryan, Patricia
24 Padilla, Maria Consejos, and Karen Greene-Ross for their
25 diligence in constructing this important document and

1 keeping him updated in its development. He further
2 wants to acknowledge the accomplish -- that the
3 California High-Speed Rail has accomplished a major
4 milestone with the creation of this program. He looks
5 forward to his continued work relationship as we
6 strengthen and fine-tune its implementation to ensure
7 that the State's small businesses, micro businesses, and
8 disadvantaged vested interest enterprises are
9 represented to their fullest and fairest extent on this
10 historic California High-Speed Rail project. Thank you
11 very much.

12 CHAIRMAN RICHARD: Thank you very much, Mr.
13 Martin, and will you please convey our appreciation to
14 the Senator for his leadership and let him know that the
15 conversations with our staff -- what we've indicated is
16 a year from now, we want to everybody to come to us and
17 look at how the best does it.

18 MR. MARTIN: He wants to apologize. He
19 couldn't make it here today, but he wants to tell you
20 that he is very much impressed with the outcome of this
21 document presented.

22 CHAIRMAN RICHARD: Thank you very much, sir.
23 Yes, Mr. Dean, good afternoon.

24 MR. DEAN: Good afternoon. I wanted to
25 start with bringing my sign, and the Chairman, seeing

1 the sign, when he came to Bakersfield and he had the
2 debate with Kevin McCarthy, and I wanted to remark on
3 that. I think that the Chair showed his leadership
4 skills and showed that he's the right man for the job at
5 this time, and one of the reasons I brought this sign is
6 because Kevin told me later, I know Kevin, he said, "I
7 clearly noticed your sign out there," and we also take
8 this sign every time we go to public meetings where
9 there are oppositions so that we can speak -- not in
10 opposition to those that are in opposition but to talk
11 about the benefits of high-speed rail.

12 Now, to get to my point, there's a handout that I
13 have given you all, and it's about four items on there.
14 Items 5, 6, 7 and 8 that we had some concerns with. The
15 handout goes into the concerns, background, and
16 requests. I'll just -- briefly just speak on them.
17 Item Number 5, I understand you want to pull from the
18 agenda, but I didn't hear about Item Number 6 and our
19 concern is that -- that we should have these
20 contracts -- every contract that the Board enter into
21 should have that 30 percent goal. None of them should
22 be exempt.

23 So that's the reason for that, and then the
24 second one there I wanted to speak on is the small
25 business plan, number 7. The only thing we're asking is

1 that there be a separate goal as part of that 30 percent
2 goal to deal with DBEs.

3 And then the one that I'm going to close on,
4 number 9, I'm going to say I support the staff
5 recommendation, which is number 10. 10 and 9 are the
6 same.

7 But I -- one of the things I'm a little
8 disappointed on, and that is number 8. As you noticed
9 number 8, I ask for there to be transparency in the
10 selection of the people that are going to serve on the
11 small business council. There's no representation
12 adequately in the Central Valley. Our organization, the
13 San Joaquin Valley BCA and the Kern Minority Contractors
14 asked to be considered. We're not being considered. I
15 don't know whether it's retaliation or we've just been
16 overlooked. We believe that the project is going to
17 start in the Central Valley. We need to have trade
18 associations in that valley getting those people ready,
19 and I just wanted to relay that. So thank you for the
20 time.

21 CHAIRMAN RICHARD: Thank you, Mr. Dean.
22 I'll ask staff about that. I notice there was some
23 vacant slots there, so your point is well taken, sir.

24 Next is Ted Hart followed by Mark Powell followed
25 by Dan Dolan.

1 MR. HART: Yes, good afternoon. I wanted to
2 speak to Prop 1-A and the requirements. I would like to
3 read quickly from the current revised draft business
4 plan AES-14, it required a full build option for phase
5 one, could be completed by 2033 at an incremental cost
6 of \$23 billion in year of expenditure dollars for an
7 accumulated cost of 91.4 billion. If you then would
8 take and add to that the exponentially numbers that are
9 required for a full statewide system, you'll arrive at
10 \$140.6 billion. The question that I have concerning
11 this issue really is that in Prop 1-A, when you read the
12 text of it -- which I'm sure everybody has looked at --
13 it references "high-speed," "high-speed," "high-speed."
14 Nowhere will you find a "blended" word.

15 I want to then move over to the text of the
16 proposed law 27-04.09, the high-speed train system to be
17 constructed, constructed pursuant to this chapter shall
18 be designed in chief of the following characteristics:
19 Electric trains that are capable of sustaining maximum
20 revenue operating speeds of no less than 200 miles an
21 hour, maximum nonstop service travel times for each
22 corridor that shall not exceed the following.

23 Now, let's go back and say "nonstop" again.
24 Since we're in Sacramento, and I happen to live here,
25 we're looking at Sacramento to Los Angeles, two hours

1 and 20 minutes. So I'm going to go over and get on the
2 train. I'm going to take an Amtrak train from
3 Sacramento to Merced. Then I am going to get off. I'm
4 going to get on a high-speed train that runs to LA. I
5 submit to you, if you can figure out how you're going to
6 do that in two hours and 20 minutes, it would be very
7 interesting. Thank you for your time.

8 CHAIRMAN RICHARD: Thank you, sir. Mark
9 Powell followed by Dan Dolan followed by Rick Strife.

10 MR. POWELL: Yeah, I, too, wanted to comment
11 on your lack of a funding plan for your initial
12 operating segment. You may gain access to \$6 billion to
13 begin work on the first construction of the initial
14 operating section, but AB-3034, the law behind
15 Proposition 1-A, requires the following: The funding
16 plans shall include, identify, and certify the sources
17 of all funds to be invested in the corridor and the
18 anticipated timeframe of receipt of those funds based on
19 expected commitments, authorizations, agreements,
20 allocations or other means. Your funding plan lacks
21 between 25 and 30 billion in expected commitments,
22 authorizations, agreements, or allocations. Moreover,
23 the Authority is not to be the judge as to the adequacy
24 of your funding plan. AB-3034 calls for a report or
25 reports prepared by one or more financial services

1 firms, financial consulting firms or other consultants
2 independent of any of the parties, indicating that
3 construction of the corridor can be completed as
4 proposed in the plan. You have no such report or
5 reports, and in fact, you have no funding plan other
6 than hoped-for federal dollars far off in the future.
7 The law behind Proposition 1-A was written to prevent
8 exactly what you are struggling to do now and that is to
9 begin construction before all funds necessary to
10 complete the initial operating section are reasonably
11 secure.

12 The truth is that your last real funding plan was
13 drafted by a financial consultant in 1999 and released
14 with your 2000 business plan. That funding plan called
15 for a temporary sales tax increase of either a quarter
16 cent for 20 years or half a cent for ten years to pay
17 for a \$25 billion statewide system, and now that tax
18 would have to be increased about four-fold since your
19 costs have escalated four times faster than inflation.
20 Thank you for your time.

21 CHAIRMAN RICHARD: Thank you, sir.

22 Dan Dolan followed by Rich Stride followed by
23 Paul.

24 MR. DOLAN: Hello, Mr. Chair and board
25 members. Dan Dolan, Western State Title Services and

1 also representing Stewart Title. I gave each of you a
2 copy of a letter from Stewart Title, and I have one for
3 Patricia Jones and for the representative for the AG's
4 office.

5 I want to commend you today for your decision to
6 approve the partially revised program level EIR and also
7 the work you have done to get the State legislature the
8 revised business plan so they can make their decision
9 hopefully for 2.6 State billion dollar Prop 1-A money
10 and to enable us to get the 3.3 federal billion that's
11 earmarked, but I want to caution the Board and ask that
12 you will seriously consider informing Governor Brown and
13 his administration that there is a need to have a title
14 insurance that reasonably covers the cost of the new 300
15 mile system, and I propose \$300 million might be a good
16 number.

17 Your current regional consultant, Edward
18 Rosenthal, has an \$18 million advance service contract,
19 and Bob Morrison, city vendor, they're really only
20 obligated to give you face title policy of hundreds of
21 millions of dollars -- I mean hundreds of thousands of
22 dollars less than \$1 million. So it's like you -- if
23 you treated this like a hazardous fire insurance, it'd
24 be like building your system and having 1/300th of the
25 amount of insurance that you really should have, and I

1 just want you to consider the risk mitigation of this
2 and ask Thomas Fellenz to recommend to the Board that
3 Stewart Title be given the opportunity to partner with
4 Bender Rosenthal and be furnished with a copy of their
5 advance service contract, so they can work together.

6 CHAIRMAN RICHARD: Thank you, sir.

7 Richard Strife followed by Paul Guerrero.

8 MR. STRIFE: Good morning. I'd like to
9 thank the Board for your service. It's a volunteer
10 service and a very difficult position. You don't make a
11 lot of money doing it, and we appreciate that. I'm in
12 my seventh year as the executive director of the
13 California Disabled Veteran Business Alliance. These
14 comments are on the small business plan. Our alliance
15 has been actively involved in California High-Speed Rail
16 staff with Padilla and Associates regarding the small
17 business plan. We made a significant input to you
18 during the public comment period and have met with your
19 staff, and corresponded by phone and emails over thirty
20 times. Our organization was founded to support the
21 State DBE program and provide oversight when needed to
22 assist State agencies and meet the three percent DBE
23 goal with the State contract. It's now written your
24 small business plan has no goals specifically
25 established for DBE participation nor does your agency

1 have a small business in the DBE as in its position.
2 Although, I understand that's been subsumed by your
3 SBLI.

4 At the beginning of your hearing, we made
5 comments, some two years ago, saying that the 25 percent
6 small business of three percent DBE goals should be
7 increased to 30 percent and five percent and that DBE,
8 Disadvantaged Business Enterprise, goals should be
9 considered not to interfere with the small business and
10 DBE goals, and we maintain that position. However, your
11 plan, as now written, does not sense any DBE goals, and
12 that is unacceptable. We understand that in your
13 planning you had to consider state funded projects as
14 well as to include federal dollars, and it was your
15 intent to use SB and DBE goals in the former. However,
16 you have presumed that when federal dollars included
17 allocated funds that you must have DBE goals and cannot
18 add DVBE goals similar as to what is done in the federal
19 DOT Disadvantaged Business Enterprise Program under
20 Title 49.

21 One of your actions has been to enter into
22 agreement with federal rail to use best practices of
23 Title 49 program and your presumption is the building of
24 your small business plan as FRA controls what goals are
25 in the high-speed rail contracts with federal funds are

1 included in the allocations. Our alliance refutes that
2 presumption noting that FRA has statutory authority
3 under CFR 49 and -- has no statutory authority and they
4 can only advise with goals of the high-speed rail uses.
5 It's now written in the small business plan, if
6 approved, would allow all California high-speed rail
7 projects to be completed with no DBE participation.
8 That is in violation of State law.

9 CHAIRMAN RICHARD: Sir, could I just ask you
10 if you could both try to finish up and then also if you
11 can provide -- if you have a copy of your comments,
12 which we could then --

13 MR. STRIFE: Yes, sir. I can leave a copy.
14 I'll finish by saying we demand you table the vote today
15 and work with our organization, others, to restructure
16 this plan and bring it in line with State law. Thank
17 you.

18 CHAIRMAN RICHARD: Thank you, sir.

19 Paul Guerrero followed by Diana LaCome followed
20 by Frank Olivera.

21 MR. GUERRERO: Chairman Richard, Board
22 members, my name is Paul Guerrero. I represent La Raza
23 Roundtable of California. I'd like to talk first on
24 Items 5 and 6, and we request that any amendment to
25 existing contracts, such as those set forth in items 5

1 and 6, include the addition of a 30 percent small
2 business goal -- that be added into that -- into all
3 contracts.

4 On Item 7, review and improve of the revised
5 small business DBE program, we support the approval of
6 the revised program and would like it to include the 10
7 percent numerical goal, the DBE.

8 Item 8, that item reviews improvement of the
9 small business advisory council, and we support the
10 formation of the council and recommend that you increase
11 its membership to 25 organizations. That will give
12 associations that have participated in the structuring
13 of this and so forth over the years -- like Marvin's and
14 others -- that will bring them into the advisory
15 council. There's the Black Chamber of Commerce. Fred
16 George is instrumental, but he's not on there, ourselves
17 as well and other organizations. We would appreciate
18 their being included and that's just the increase -- the
19 increase to 25 members. Okay. Thank you.

20 CHAIRMAN RICHARD: Thank you, Mr. Guerrero.

21 Diana LaCome that followed by Frank Olivera
22 followed by David Schwegel.

23 MS. LACOME: Good afternoon, Chairman
24 Richard, Authority Board members. I'm Diana LaCome,
25 President and CEO of APAC, California. APAC is

1 requesting that the Authority set a minimum
2 Disadvantaged Business Enterprise goal of 10 percent
3 within your overall goal of 30 percent SBE goal. A 10
4 percent DBE goal is a minimum standard set by US DOT on
5 federally funded projects. The authorization for
6 establishing these DBE goals comes directly from FRA in
7 their September 15th, 2011 letter to the Authority in
8 response to our Title 6 complaint.

9 You have copies of that letter in front of you,
10 so I will refer to page 3, items one and two, and I'm
11 not going to go through every word. I'm just going to
12 kind of highlight it. One, the grantee agrees to, A,
13 provide maximum opportunities for small businesses
14 including veteran-owned businesses and service disabled
15 veteran-owned small businesses, and, B, implement best
16 practices consistent with our nation's civil rights and
17 equal opportunity laws ensuring for nondiscrimination of
18 a protected group. Two, an example of a best practice,
19 under B above, should be to incorporate key elements of
20 the DBE program; see 49 CFR part 26 in contracts under
21 this agreement. This practice would involve setting a
22 DBE contract goal on contracts funded under this
23 agreement. Contracts that have subcontracting
24 possibilities, the goal would reflect the amount of DBE
25 participation that the grantee would expect to obtain

1 absent the effect of discrimination on this contract.

2 Whether by commission or omission the DBE
3 community has been damaged by being excluded from this
4 project. It is within your power, this authority
5 board's, power to do the right thing, so please do the
6 right thing and just set a 10 percent DBE goal today.
7 Thank you for your attention.

8 CHAIRMAN RICHARD: Thank you, Ms. LaCome.

9 Mr. Olivera, Frank Olivera followed by David
10 Schwegel followed by Chris Coles.

11 Good afternoon.

12 MR. OLIVERA: Good morning. I'm here to
13 represent --

14 CHAIRMAN RICHARD: It's good morning in
15 Hawaii.

16 MR. OLIVERA: Good afternoon.

17 CHAIRMAN RICHARD: Could we reset the clock.

18 MR. OLIVERA: Thank you. I'm here
19 representing, as usually, the Citizens for California
20 High-Speed Rail Accountability. We were created, and a
21 lot of people get tired of hearing this, because in 2010
22 the High-Speed Rail Authority decided to come through
23 Kings County with very little information for us. Our
24 local governments and the population attempted to work
25 with the High-Speed Rail Authority for about one year,

1 and when we became clear that we were being ignored,
2 things became a little bit more tense. As a result, the
3 High-Speed Rail Authority broke off communication with
4 our local governments. As far as individuals, we were
5 told that our concerns would be addressed in the
6 environmental impacts report, which they weren't.

7 All of that said, things have changed after we
8 were disrespected, our civil rights were probably
9 violated. Ezra Kenan was certainly violated just for
10 daring to ask questions, but that's changed. We have a
11 new mode going on, and we appreciate that.

12 However, coming to Kings County and meeting with
13 people to see the problem and then coming to Kings
14 County and speaking with our local governments one time
15 with no answers does not solve the problem the project
16 raises forward. I have been in Sacramento for a week.
17 I have listened to hearings all week. We are aware that
18 our Amtrak is going away south of Merced, that our
19 population will not be serviced, that people who really
20 use the train for commuting instead of driving will be
21 disenfranchised. We received 12 trains a day in that
22 part of the valley. We demand 12 trains a day in the
23 future. This is a serious problem. Thank you.

24 CHAIRMAN RICHARD: Thank you, Mr. Olivera.

25 David Schwegel followed by Chris Coles followed

1 again by Chris Coles.

2 Mr. Coles, can I ask you when you come up to
3 speak just once.

4 Mr. Schwegel, good afternoon.

5 MR. SCHWEGEL: Yes. David Schwegel,
6 Californians for High-Speed Rail. As a professional
7 engineer having written numerous EIRs and published
8 several papers, articles on the sustainability and
9 carbon footprint characteristics of cars, planes, and
10 high-speed rail, I rebut the LAO's lies regarding
11 noncompliance with AB-32.

12 As we know from Vision California scenarios C2
13 Smart Growth, Clean Future, AB-32 compliance is
14 definitely there. The bottom line is if not HSR, what
15 are we going to do, mow over numerous farms, completely
16 wipe out areas to build airports and expand our roadways
17 to accommodate the 60 million people and 24 million jobs
18 by 2050 only to induce further development that will
19 further take farms?

20 The bottom line is high-speed rail is the smart
21 choice for our state's futures. And farmers, they are
22 fairly compensated in France, and I encourage us to
23 study the mitigation techniques that have been used to
24 compensate those farms in France. And as we know with
25 the State's rural urban connection strategy, keeping our

1 farming interests alive is very key because after all,
2 the agriculture industry -- it's the third largest in
3 the world. And I also encourage us to explore options
4 like the solar modules and the wind turbines installed
5 on the farms so the farmers can sell the power to the
6 Authority. And plus, the Erodes made a great statement
7 in San Francisco about an innovative storm water system,
8 and I encourage us to check out those alternatives as
9 well. So the bottom line, High-Speed rail is, indeed,
10 the smart choice for California's future. Thank you.

11 CHAIRMAN RICHARD: Thank you, Mr. Schwegel.
12 I understand Chris Coal has left. I just want to
13 confirm that. Okay.

14 Then next it looks like we have a tag team. Lee
15 Ann Eager and Kristen Kawaguchi. I'm not quite sure how
16 you folks propose to divide up your two minutes but --

17 MS. EAGER: Good afternoon. I'm Lee Ann
18 Eager and this is Kristen Kawaguchi, and we're here from
19 the EDC, and we're representing the young and the old
20 voters for High-Speed Rail.

21 CHAIRMAN RICHARD: That would be the young
22 and the younger.

23 MS. EAGER: We're vintage. And we just
24 wanted to give you a quick update on what we're doing in
25 Fresno as far as educating and informing our community

1 as far as our goal at the EDC. I know one of the things
2 that Supervisor Perea talked about is -- he and I have
3 said in the last 30 days -- on the service club circuit
4 talking to our community about high-speed rail, about
5 the new business plan, and what's going on. We have
6 also been holding meetings, and on February 24th, we had
7 an informational meeting for those folks who are on the
8 alignment, the businesses that are on the alignment.

9 And I do want to really thank the staff of the
10 High-Speed Rail Authority, Lance Simmens of his group,
11 and Jeff Abercrombie, Patricia, Jeff, and her team.
12 When we need information, they are right there on the
13 spot, and we think it's really important for the people
14 in Fresno County and certainly all of the Central Valley
15 to get as much information as they can. And we're
16 planning on holding additional meetings in the next 90
17 days in order to inform our community about what's
18 coming up in the future. And as far as the young
19 voters --

20 MS. KAWAGUCHI: I just wanted to say that
21 since we came to last week's meeting in San Francisco,
22 we've had an outpouring of support from all generations.
23 We have had people contacting us and letting us know
24 that they support our efforts. We have been already
25 offered partners with other organizations and wanted to

1 let you know that we're mobilizing this group of young
2 voters and young supporters. And we're starting to
3 educate the younger voters and gaining stronger support
4 from this generation of tomorrow's influencers.

5 So far it's been word of mouth. We have just
6 been discussing with people, but we do plan on holding
7 some kind of educational event later in the year for
8 these young voters and younger generation of
9 professional, and we're excited about that. And to let
10 you know, we just support you and know that you will
11 keep and continue the dream of high-speed rail and what
12 it will do for our future generation.

13 CHAIRMAN RICHARD: Thank you very much.

14 MS. KAWAGUCHI: We made it.

15 CHAIRMAN RICHARD: Very nice. Well done.

16 I'm going to apologize to this person from the
17 FCOM group. Makedah Shartukar.

18 Please excuse me if I mispronounced that.

19 MS. SHARTUKAR: You actually did a very good
20 job. It is Makedah.

21 Hello. Makedah Shartukar. I am the CEO of the
22 FCOM Group. I am a small business, and I do specialize
23 in outreach and optimization of small business
24 infrastructure.

25 I, first, would like to state that I want to

1 commend the small business team and program, because I
2 do think the revised program is applicable, and I see
3 that a lot of work has been put into it, but in my
4 opinion, the program is still very reactive versus
5 proactive with SB/DBE interest.

6 We talk about the high-speed rail's impact on
7 employment and economic development. However, the
8 current model being utilized still represents a lot of
9 the status quo. I do have direct conversation with a
10 lot of the top agencies who struggle in meeting the SBE
11 DBE, and I haven't really seen as part of this program,
12 the real innovative approaches that would be needed in
13 order to meet the 30 percent goal that the Authority has
14 set.

15 Here's why: A lot of the small businesses,
16 unless they're certified, are not being in communication
17 with this program. A lot of small businesses need a lot
18 more time to seal their operations and to make sure that
19 they have the proper infrastructure in place. So I
20 highly recommend that the Board and the small business
21 program allocate more resources on the front end towards
22 education and capacity building of the local small and
23 disadvantaged businesses in order to have the greater
24 support of the communities at large, achieve a 30
25 percent goal, and more importantly, sustain that goal.

1 I also recommend that if a metro protege program is
2 implemented, that you actually set a target number of
3 businesses that will be a part of that program. Thank
4 you.

5 CHAIRMAN RICHARD: Thank you very much.

6 I need to apologize to our next speaker, Mr. Ken
7 Wipff, who I had not realized is actually, I believe, an
8 elected official, the vice-president of the Acton Town
9 Council.

10 Sir, are you here? I'm so sorry. I indicated we
11 do take elected officials early, and I just missed it,
12 sir.

13 MR. WIPFF: I'm very sensitive about it.

14 CHAIRMAN RICHARD: You're probably more
15 sensitive about how we affect the community of Acton.

16 MR. WIPFF: Well, obviously, it's an ongoing
17 concern. That's why I'm here. We looked at the
18 alternative analysis and what it leads us to is -- first
19 of all, I have to be quite honest and do something that
20 I warned the parties that I was going to do. I want to
21 compliment Sara and Dan who work with us on a regular
22 basis.

23 I've spoken to you twice, and what I have said is
24 "Please have them engage us. Please have them work with
25 us because we're a sensitive area." We don't have any

1 background other than me. That's about it. And so the
2 train is going to have a huge impact on us when it goes
3 through. Now, each time I have said, "Please have them
4 work with us," they have. And I think the alternative
5 analysis shows that. I don't know that it saves us. I
6 don't know that it makes us ardent supporters, but I
7 appreciate their efforts, and I appreciate whatever you
8 guys did to get them to go there. Thank you very much.

9 Also, I have complained at a couple of meetings
10 that we deal with engineers. All we deal with is
11 engineers, and they're good engineers. And they are --
12 they try and be responsive. But we never get to deal
13 with you guys. So here's the dirty part of what I'm
14 going to say, all of you are invited to the next meeting
15 we have up there, because they're flying right to the
16 flack. You're dealing with the flack, but they're right
17 in it, and we'd love for you to see our community,
18 understand our needs, and just see what we're dealing
19 with when we try and accept high-speed rail. Thank you.

20 CHAIRMAN RICHARD: Council member, I'm not
21 quite sure when, but I'll find a way to get there. I'm
22 only speaking for myself. I've learned a lot by going
23 to parts of the Central Valley including Kings County
24 and others. There's nothing like standing there on the
25 alignment to get a sense of it.

1 MR. WIPFF: That's great.

2 CHAIRMAN RICHARD: So we'll find a way.

3 MR. WIPFF: We'll drive you around on the
4 dirt roads and let you see our non-producing wells.
5 Thank you.

6 CHAIRMAN RICHARD: Do you think we could use
7 those for carbon sequence information and get some green
8 house gas --

9 MR. WIPFF: I'm sorry. What?

10 CHAIRMAN RICHARD: No, that's all right.

11 All right. Our last speaker is Mr. Tate Hall,
12 Fresno Metro Black Chamber of Commerce. Mr. Hall.

13 MR. HILL: That's Hill.

14 CHAIRMAN RICHARD: Oh, sir, I'm so sorry.

15 MR. HILL: Yeah, that might just be my
16 cursive, there.

17 CHAIRMAN RICHARD: Oh, it is Hill. Excuse
18 me, Mr. Hill. I'm so sorry.

19 MR. HILL: I'm Tate Hill, President of the
20 Fresno Metro Black Chamber of Commerce also the
21 vice-chair of the California Black Chamber Council of
22 Chamber. Mr. Aubry sends his regards for not being able
23 to be here on today. Coming in support of the small
24 business DBE plan with some -- two or three
25 recommendations that might help reduce barriers for

1 small businesses. One regarding some of the reporting
2 process as a way to help mediate some of that. If the
3 reporting could be done online or provide that
4 information as it relates to DBE output reach and SB
5 efforts, also, to set that information available online.

6 Second, if there would be a way to form some type
7 of third party remedy through the Board or some type of
8 review committee for mitigation of issues around
9 contracts. Right now it's all handled internally,
10 administratively, through the small business league, an
11 officer or the CEO. So if there are issues outside of
12 that, the person really doesn't have a remedy other than
13 a legal action.

14 Third, was if there could be some component of
15 monitoring regional SB/DBE outreach and regional
16 contracting. While it might not be a contract or a goal
17 but that there's some way to increase opportunities for
18 small businesses through monitoring that and also being
19 able to report that, again, just online based reporting
20 that allows for DBE community groups to assist in
21 identifying qualified DBEs whether it might contractual
22 gaps. And then just the reemphasis, the critical part
23 around subpart F on the part of services, I think those
24 are going to be really critical in making sure that you
25 reach your goals, particularly the mentor protege,

1 certification, and communication. Thank you.

2 CHAIRMAN RICHARD: Thank you, Mr. Hill.
3 Please tell Aubry Stone that Dan Richard says, "Hello."
4 I knew him when I worked at PG&E. Thank you.

5 That concludes our public comment period. I
6 think we need a reality check, the unfortunate reality.
7 I want to put the blame where it's due because we always
8 accept responsibility when it's ours. In this case,
9 it's not. The owners of this building told us that we
10 turn into pumpkins at 1:30. So they need their
11 conference room back, and since they own it, I guess
12 that's not unreasonable.

13 We have a number of items in front of us. It
14 looks to me like we're not going to be able to get
15 through all of them today. We're going to have to put
16 some over. I know we have people here on the -- who
17 have come for the SBE DBE issue and we have -- also have
18 the alignment question.

19 Mr. Fellenz, do you have a recommendation?

20 MR. FELLEENZ: Mr. Chairman, for Item Number
21 6, we do have Ms. Vongiesda and Mr. Ashley who would be
22 available for questions if you want to take that item
23 more quickly. There was a Board memo that was written
24 that I think explains what 6 is, and then if we could
25 move to the 7 and 8, Ms. Pat Padilla is ready to give a

1 very short presentation on that. I think those were
2 important items.

3 CHAIRMAN RICHARD: Okay. As long as you
4 change the word "important" to "more pressing," because
5 I think they're all important.

6 MR. FELLEENZ: Yes, sure they are.

7 CHAIRMAN RICHARD: And then the only issue
8 is on the PMO contract, I know that there was a request
9 that we hold that over, but I think what I'd like to do
10 is suggest that we not but we work with the PMO on these
11 DBE SBE goals. So I think that's probably the better
12 way to do it. I certainly commit as Board Chair that we
13 hold off until we will work with them on that so that
14 may, in fact, be the most effective way to do that.

15 MR. FELLEENZ: I think that's an excellent
16 selection, and I will make that commitment as well.

17 CHAIRMAN RICHARD: Thank you. Okay. So the
18 acting -- the interim CEO and I will both have those
19 conversations.

20 Do I have a motion on the extension of the PMO
21 contract.

22 MR. RICHARDS: So moved.

23 MR. HARTNETT: Second.

24 CHAIRMAN RICHARD: Moved by Vice-Chair
25 Richards, seconded by Mr. Hartnett.

1 Oh, yes. I'm sorry, Mr. Umberg.

2 MR. UMBERG: Can I just -- let me just ask
3 one question. Who do they report to? Who do the
4 various contractors report to specifically?

5 CHAIRMAN RICHARD: If you read the papers,
6 no one. No. I'm sorry. Sorry. I haven't had lunch
7 yet. So -- well, the contracts specifically report to
8 the CEO we have in position.

9 MR. FELLEENZ: Yes, the PMO reports to the
10 CEO.

11 MR. UMBERG: Directly to the CEO?

12 MR. FELLEENZ: Yes.

13 MR. UMBERG: Okay. That answers my
14 question.

15 CHAIRMAN RICHARD: Anything else?

16 Ms. Moore, please call the roll.

17 MS. MOORE: Vice-chair Richards.

18 MR. RICHARDS: Yes.

19 MS. MOORE: Mr. Umberg.

20 MR. UMBERG: Yes.

21 MS. MOORE: Mr. Hartnett.

22 MR. HARTNETT: Yes.

23 MS. MOORE: Mr. Balgenorth.

24 MR. BALGENORTH: Yes.

25 MS. Moore: Chairman Richard.

1 CHAIRMAN RICHARD: Yes.

2 Okay. Ms. Padilla. And I know you're going to
3 truncate your presentation, but there was a number of
4 very important comments, certainly, I'm going to ask
5 that my colleague, Mr. Umberg, is going to be concerned
6 about the disabled veterans. And I don't want to put
7 words in his mouth, but if you can address some of those
8 to the best of your ability.

9 MS. PADILLA: Thank you, Chairman Richard
10 and members of Board, and I'm very pleased to be given
11 again the opportunity to bring back the initial draft
12 SB/DBE program back for your consideration after
13 completing the public facilitation process. Pursuant to
14 the FRA directives, as you recall, we are required as an
15 entity, as a direct recipient of the FRA funds to
16 establish a Small Disadvantaged Business Enterprise
17 Program, and as such, we have done so. In conjunction
18 with that, we were required to put the program out for
19 public comment. We did a very extensive outreach
20 following the Board's approval to release this on
21 November 3rd, 2011. As you may or may not recall, we
22 had a mandatory 45-day public facilitation process. You
23 took the position to extend that in light of the
24 holidays. And it was now increased to 85 days with
25 FRA's concurrence to ensure that maximum participation

1 and input was, in fact, secured. A number of modes
2 of -- were utilized in -- to ensure that we got maximum
3 participation while the Authority received extremely
4 very beneficial number of responses. 235 submissions
5 were actually logged during the public facilitation
6 process. The submission actually identified 456
7 individual comments that had direct impact as it related
8 to the program. I'm not going to give you all the modes
9 of operation that were used in the public facilitation
10 process, but I would like to highlight a couple of them.

11 One is the statewide public forums that were held
12 under your direction in the City of San Francisco,
13 Merced, and Los Angeles, where we had over 250 firms
14 participating in those listening sessions, where they
15 heard first-hand about the programs -- we had the
16 program available. The program was also available to be
17 downloaded and to facilitate comments from our website,
18 which was very beneficial and demonstrated significant
19 contributions that were received in that manner.

20 In summary, significant modifications and added
21 value to this program were resulted from this process.
22 Truthfully, there were a number of organizations,
23 advocate groups that really took to heart the program
24 and really delved into it in many layers and in many
25 areas. One of most significant was the supportive

1 services in looking at retention and success of a small
2 business once they are selected and actively able to
3 participate and successfully went through the bid
4 process to their success on the program. To highlight
5 just a few of the key components of the overall program
6 delivery that had an impact were -- based on these
7 comments -- were to add stronger administrative and
8 enforcement remedy to address non-contract compliance.
9 That was in addition to the board's directive to address
10 these areas as well. The additional area that the Board
11 expressed in conjunction with many of the comments
12 received was increased level of accountability,
13 accountability by contractors who are currently doing
14 work under authority contracts to ensure that they are,
15 in fact, meeting the objectives and goals of the program
16 and the utilization efforts.

17 So this -- we formally address the increase
18 accountability, data collection and reporting of
19 contractor efforts, and requirement of actual SB
20 utilization reporting on a monthly basis.

21 We also clarified a very important and most
22 recently enacted final rule under 49 CFR part 26 DOT DBE
23 program best practice model, which now calls for and
24 allows and permits set aside for small businesses. So
25 we did provide additional clarification as a result of

1 many comments that were received on this area. The
2 additional area was to enhance the Authority's
3 supportive services model to include viable resource
4 partners. Basically designed to leverage business
5 development resources. We also imposed and expanded
6 contractors supportive services requirements to also
7 promote success of small businesses participating and
8 retention.

9 Before you is a Board action requesting you to
10 approve the Authority's Small Business Disadvantaged
11 Business Enterprise program as it's presented today and
12 corresponding resolution number 12-26 and provide
13 authorization to the interim CEO to forward the programs
14 to the Federal Railroad Administration for their final
15 approval and acceptance.

16 CHAIRMAN RICHARD: Thank you, Ms. Padilla.

17 Mr. Fellenz.

18 MR. FELLEENZ: Mr. Chairman, I know that at
19 the last meeting that we discussed this plan, the Board
20 Member Umberg asked about the enforcement mechanisms,
21 and Ms. Padilla just touched on that, but can I just
22 take a minute and just read through those because I have
23 parsed them out of the plan and just -- I'll read them
24 to you quickly so that you know what we were doing in
25 that way.

1 We have these following administrative remedies
2 that we can choose: Withholding on amount equal to the
3 difference between that actual small business attainment
4 and the contractor's small business goal commitment from
5 any milestone payment until the breach is cured. Number
6 two, withholding up to the full amount of any milestone
7 payments that would otherwise be due until the breach is
8 cured. Number three, requiring the submission of a
9 corrective action agreement and presenting it to the
10 Board. Number four, penalty of \$1,000 a day for each
11 monthly Form 103 that's overdue. Five, civil penalties
12 for knowingly providing false information. Six, holding
13 responsibility determination hearing, and seven,
14 termination of the contract in whole or in part.

15 CHAIRMAN RICHARD: Thank you, Mr. Fellenz.

16 Questions, comments? Mr. Umberg.

17 MR. UMBERG: Well, thank you, Ms. Padilla
18 and Mr. Fellenz. I think that's a substantial
19 improvement, and I appreciate your responding. I don't
20 think it was just my concern. I think it was a concern
21 of the Board and but for the press of time I'd be
22 more -- because I've looked at the plan, I've looked at
23 the public comments and you have done wonderful work in
24 terms of soliciting comments and modifying the program
25 to meet those comments.

1 A couple questions, though, with respect to DVBE,
2 if these were only state dollars, we would be required
3 to set aside three percent DVBE; is that right?

4 MS. Padilla: Yes, and the program does
5 speak to that. In instances where there is 100 percent
6 state funded project, it does say that we will defer to
7 the state statutes as it pertains to the veterans and
8 military code and apply goals as applicable to those
9 projects. So the three percent and the consideration of
10 the -- obviously, even a five percent would be given
11 consideration in, in consideration with those state
12 statutes. Good faith efforts, we also mention, in the
13 program, will not be a requirement. If they do not meet
14 the goal, they won't be -- they will be nonresponsive
15 for an award in those -- in that area

16 MR. UMBERG: Well, it's not just that we
17 would defer. We would be required by law to go ahead --

18 MS. PADILLA: Yes, and I apologize. I may
19 have -- yes. We would have to comply with state
20 statute.

21 MR. UMBERG: Right. So the -- if there's a
22 dollar of federal money, then it no longer applies; is
23 that right?

24 MS. PADILLA: If -- well, I don't know if
25 you want to take this, Mr. Fellenz.

1 MR. FELLEENZ: That's correct. The state law
2 just pertains to those projects that are funded 100
3 percent by State funds.

4 MR. UMBERG: Right. But if there's a dollar
5 of feral money, then the State law no longer applies?

6 MR. FELLEENZ: Correct.

7 MR. UMBERG: Well, here's my suggestion.
8 Actually, I'm going to make it an amendment is that
9 given the high unemployment rate among, particularly,
10 returning veterans, and the State's policy as espoused
11 by the Governor, who is a strong supporter of veterans
12 as well as the legislature, that we go ahead and we
13 amend the program that we submit to FRA and we use the
14 State policy and the State law as part of our program.
15 So in other words, that if the FRA and the Congress and
16 the executives say that we would prefer that California
17 go ahead and use a lower standard, a lesser standard,
18 that they can tell us to do so. My guess is that they
19 won't.

20 My guess is that they will go ahead and permit
21 California to treat veterans accordingly, to have a
22 three percent set aside. So with that amendment, I
23 would move the proposal.

24 CHAIRMAN RICHARD: Okay. And I do have a
25 question, but do I have a second for Mr. Umberg's

1 amendment?

2 MR. HARTNETT: Second.

3 CHAIRMAN RICHARD: I mean -- excuse me. For
4 his motion as amended? Second. Okay.

5 Just very quickly, I know we're running out of
6 time. Ms. LaCome and Mr. Guerrero were talking about
7 something I discussed with them recently, which is just
8 the ability to go beyond to use bootstraps or certain
9 other federal regulations and so forth. Does anything
10 that we do today limit our ability to amend or perfect
11 or continue to do those kinds of things within the small
12 business program or make it go down a bad road here?

13 MS. PADILLA: No.

14 MR. FELLEENZ: No.

15 CHAIRMAN RICHARD: No. Okay. So we can
16 continue to work and do that.

17 And second, because I'm going to want to see if
18 we can get the next time in also. Does staff have any
19 objection to the expansion of the advisory committee by
20 a few slots to add some folks?

21 MS. PADILLA: No, we don't.

22 MR. FELLEENZ: No, there's no objection to
23 that.

24 CHAIRMAN RICHARD: Okay. All right. Okay.
25 So on Mr. Umberg's motion to adopt the program with his

1 amendment that we include the three percent set aside
2 for DVBES -- did I say that correctly Mr. Umberg?

3 MR. UMBERG: Yes.

4 CHAIRMAN RICHARD: Would you please call the
5 roll.

6 MS. MOORE: Vice-Chair Richards.

7 MR. RICHARDS: Yes.

8 MS. MOORE: Mr. Umberg.

9 MR. UMBERG: Aye.

10 MS. MOORE: Mr. Hartnett.

11 MR. HARTNETT: Yes.

12 MS. MOORE: Mr. Balgenorth.

13 MR. BALGENORTH: Aye.

14 MS. MOORE: Chairman Richard.

15 CHAIRMAN RICHARD: Aye.

16 Could I have a motion on the next time, which is
17 I believe the composition of the staff's of the advisory
18 group.

19 MR. UMBERG: So move.

20 MR. RICHARDS: Second. With the --

21 CHAIRMAN RICHARD: As expanded to 25 slots.

22 MR. RICHARDS: Thank you. Second.

23 CHAIRMAN RICHARD: Okay. Would you call the
24 roll.

25 MS. MOORE: Vice-chair Richards.

1 MR. RICHARDS: Yes.

2 MS. MOORE: Mr. Umberg.

3 MR. UMBERG: Aye.

4 MS. MOORE: Mr. Hartnett

5 MR. HARTNETT: Yes.

6 MS. MOORE: Mr. Balgenorth.

7 MR. BALGENORTH: Aye.

8 MS. MOORE: Chairman Richard.

9 CHAIRMAN RICHARD: Aye.

10 I just want to say, Ms. Padilla, You guys do
11 great work. We're very fortunate to have you here.

12 MS. PADILLA: Thank you very much.

13 CHAIRMAN RICHARD: Mr. Fellenz, it looks
14 like we have about 15 seconds. I think at this point,
15 the Board will enter into closed session in the room
16 behind us to discuss the matters that are on the agenda
17 for closed session pertaining to litigation personnel.

18 Mr. Umberg.

19 MR. UMBERG: May I just raise one final
20 point is that I have had a number of contractor,
21 subcontractors express concerns with respect to payment.
22 So if we could put that on the agenda for the next
23 meeting as to how we're dealing with payments to
24 contractors and subcontractors. I suppose, along the
25 lines we want to discuss, you know, what sanctions there

1 are if contractors aren't paying the subcontractors,
2 that kind of thing.

3 MR. FELLEENZ: We'd be happy to.

4 CHAIRMAN RICHARD: That's good. And
5 encouraging staff to have that discussion occur in the
6 past tense as much as possible. So we'll be good.

7 So we'll now enter into closed session, and I
8 believe since we will not be able to avail ourselves of
9 this facility, it's probably appropriate for me to say
10 that we will report on any actions from the closed at
11 the outset of the next regularly scheduled meeting of
12 the High-Speed Rail Authority. Thank you all for your
13 patience today. Thank you for coming.

14

15 (Whereupon the proceedings concluded at 1:31 p.m.)

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1 I, Brittany Flores, a Certified Shorthand Reporter of
2 the State of California, duly authorized to administer
3 oaths, do hereby certify:

4 That the foregoing proceedings were taken before me
5 at the time and place herein set forth; that any
6 witnesses in the foregoing proceedings, prior to
7 testifying, were duly sworn; that a record of the
8 proceedings was made by me using machine shorthand which
9 was thereafter transcribed under my direction; that the
10 foregoing transcript is a true record of the testimony
11 given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal Case,
14 before completion of the proceedings, review of the
15 transcript () was () was not requested.

16 I further certify I am neither financially interested
17 in the action nor a relative or employee of any attorney
18 of party to this action.

19 IN WITNESS WHEREOF, I have this date subscribed my
20 name.

21
22 Dated:

23
24 _____

25 Brittany Flores CSR 13460